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NOTICE

The undermentioned Gazettes of India Extraordinary were published upto the 23rd January, 1963 :—

Issue No.	No. and Date	Issued by	Subject
9	S.O. 198, dated 16th January, 1963.	Ministry of Finance	Authorising every Superintendent of Central Excise to grant permit to a dentist, a practitioner of ayurvedic or unani medicine or an industrial user of gold <i>w.e.f.</i> 14th January, 1963.
	S.O. 199, dated, 16th January, 1963.	Do.	Directives that every dealer and every refiner keep accounts in the same forms and in the same manner as have been prescribed.
	S.O. 200, dated 16th January, 1963.	Do.	Directives that the returns referred to shall be made within the time specified thereby.
	S.O. 201, dated 16th January, 1963.	Do.	Corrigendum.
10	S.O. 202, dated 18th January, 1963.	Ministry of Commerce & Industry	Rescinding the S.O. No. 383, dated the 11th February, 1959.
	S.O. 203, dated 18th January, 1963.	Do.	Declaring that no person shall, save with the permission of the Central Government, enter into any forward contract for the sale or purchase of gur.
11	S.O. 204, dated 19th January, 1963.	Ministry of Information & Broadcasting	Approval of Films specified therein.
	S.O. 205, dated 19th January, 1963.	Do.	Approval of film specified therein.

Issue o.	No. and Date	Issued by	Subject
12	S.O. 244, dated 19th January, 1963.	Ministry of Steel & Heavy Industries.	The Cement Control (Amendment) Order, 1963.
13	S.O. 245, dated 21st January, 1963.	Ministry of Commerce & Industry.	Authorising the body of persons to take over the management of the whole of the Harinagar Sugar Mill Ltd., Harinagar, District Champaran, Bihar.
14	S.O. 246, dated 23rd January, 1963.	Ministry of Scientific Research & Cultural Affairs.	The International Copyright (First Amendment) Order, 1963.

Copies of the Gazettes Extraordinary mentioned above will be supplied on indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these Gazettes.

PART II—Section 3—Sub-section (ii)

Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories).

ELECTION COMMISSION, INDIA

New Delhi, the 19th January 1963

S.O. 252.—Whereas the election of Shri B. P. Maurya as a member of the House of the People from the Aligarh Constituency of that House has been called in question by an election petition presented by Shri Shiv Kumar;

And whereas by its notification No. 82/117/62 dated the 23rd May, 1962, the Election Commission appointed Shri Shital Prasad Roy, District Judge, Aligarh, as Member of the Election Tribunal constituted for the trial of the said petition;

And whereas the said Shri Shital Prasad Roy has resigned the membership of the said Tribunal and a vacancy has accordingly occurred in the office of the Member of the Tribunal;

Now, therefore, in exercise of the powers conferred by sub-section (4) of section 86 and section 88 of the Representation of the People Act, 1951, the Election Commission hereby appoints Shri Bhr Singh, District Judge, Aligarh, to fill the said vacancy and Aligarh as the place where the trial of the said petition shall be held.

[No. 82/117/62.]

New Delhi, the 21st January 1963

S.O. 253.—In pursuance of section 106 of the Representation of the People Act, 1951, the Election Commission hereby publishes the order pronounced on the 7th January, 1963, by the Election Tribunal (II), Chandigarh.

IN THE COURT OF SHRI BALRAM UPADHYA, MEMBER, ELECTION
TRIBUNAL II, CHANDIGARH

In re:—ELECTION PETITION No. 248 of 1962

S. Gurdial Singh Dhillon s/o S. Hazura Singh—*Petitioner*,

Vs.

S. Hukam Singh, former Deputy Speaker, Lok Sabha 21, Ashoka Road, New Delhi.—*Respondent*.

JUDGMENT

This is a petition by S. Gurdial Singh Dhillon, a defeated candidate, against the election of S. Hukam Singh, who was elected to the Lok Sabha from Patiala

Parliamentary constituency in 1962. It was alleged that the respondent exercised undue influence on a considerable body of voters in the constituency belonging to Namdharis sect of the Sikhs by getting their spiritual head to issue a Farman or direction to the Namdhari Sikh voters to vote for the respondent and to support his candidature. It was said that this Farman was printed in an issue of Sacha Marag a weekly paper and 1500 copies of this paper were freely distributed at certain places in the constituency. Certain corrupt practices mentioned in the petition were also alleged and it was contended that thousands of valid votes polled in favour of the petitioner were illegally declared invalid and thousands of invalid votes polled in favour of the respondent were illegally declared valid. The petition was contested. The allegations made in the petition were denied. Preliminary objections were raised relating to the maintainability of the petition and it was contended that no Farman was got issued by the respondent as alleged and that the other allegations made in the petition were incorrect and baseless. After considering the petition and the written statement and hearing counsel for the parties, the following issues were framed:—

1. Whether the petition is verified in the manner prescribed and if not, whether it should be rejected as invalid?
2. Whether the affidavit accompanying the petition is in accordance with law? If not, how does it affect the petition?
3. Whether the allegations made in paragraph 4 of the petition lack material and full particulars and if so, is the paragraph liable to be expunged?
4. Whether the want of signature and verification on the annexure appended to the petition is non-compliance of Section 83(2) of the Representation of the People Act, which invalidates the petition?
5. Whether the corrupt practices of undue influence and appeal on grounds of religion and community were committed by the respondent or his agent with his consent as alleged in paragraph 4, parts (I) & (II) of the petition?
6. Whether the respondent or his election agent took reasonable means to prevent commission of the corrupt practices within the meaning of Section 100, Clause (2) of the Representation of the People Act? If so, what is the effect?
7. Whether there has been non-compliance with Election Rules as set out in paragraph 4, part (III) of the petition, which materially affected the result of the election?

As requested by the respondent, issues 1 to 4 were taken up for hearing as preliminary issues on the 6th of August, 1962, and another was passed on that date disposing of issues Nos. 1 to 4. In dealing with issue No. 4 it was considered proper to allow an opportunity to the petitioner to apply for amendment. An application for amendment was accordingly made, which was allowed subject to payment of costs.

The case came up for final hearing today. Mr. Gurdial Singh Dhillon, the petitioner, and S. Hukam Singh, the respondent, appeared. The respondent was also accompanied by his counsel.

The petitioner stated that he had no evidence to produce in the case that he did not wish to proceed further with it. He, however, stated clearly that he did not wish to withdraw and was not prepared to make any application for withdrawal of the petition. He prayed for a decision of the case.

The decision given already on issues 1 to 4 on the 6th August, 1962, does not justify a disposal of the entire petition on merits. Issues No. 5, 6 & 7 relate to the corrupt practice of undue influence and appeal on the ground of religion and other corrupt practices and non-compliance of the election rules alleged in the petition. No evidence having been produced relating to these, it is not possible to allow the petition and to declare the election of the respondent as void or bad in law. In fact in the special circumstances of this case it is not possible for this Tribunal to give any real decision on the merits of the election petition.

The Representation of the People Act 1951 does provide for withdrawal of petitions. Section 108 says that an election petition may be withdrawn only by leave of the Election Commission if an application for its withdrawal is made before the appointment of an Election Tribunal. Section 109 deals with an application for withdrawal made after the appointment of the Tribunal. Sub-section

(2) of Section 109 says, "where an application for withdrawal is made under sub-section (1), notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Official Gazette". No application for withdrawal having been made, I find myself unable to take action under this provision of the Act. Similarly in the absence of an application for withdrawal the provisions of Section 110 of the Representation of the People Act 1951 are also not applicable. The only course open to this Tribunal appears to be in these circumstances to dismiss the petition. In fact it appears that there is a lacuna in this Statute and while the Statute lays down as to what may be done when application for withdrawal is made, there is no provision dealing with the situation when a petitioner does not expressly withdraw the petition but merely declines to support it by necessary evidence. As the law stands, however, this petition can only be dismissed.

Mr. Ajit Singh Sirhaddi, learned counsel for the respondent, said that as the respondent had not to produce any evidence or to incur any expenditure in that connection he would not press for costs.

The petition is accordingly dismissed. No order is made as to costs.

B. UPADHYA,
Member, Election Tribunal II,
Chandigarh.

Dated 7-1-1963

[No. 82/248/62.]

By Order,
PRAKASH NARAIN, Secy.

MINISTRY OF HOME AFFAIRS

New Delhi, the 18th January 1963

S.O. 254.—In exercise of the powers conferred by entry 3(c) of Schedule I appended to the Ministry of Home Affairs notification No. 15/13/59(V)-P.IV, dated the 13th July 1962 [GSR No 991, published in the Gazette of India, Part II, section 3, sub-section (1), dated the 28th July 1962], the Central Government hereby specifies Nawab Asadi Begum Sahiba and Nawab Khursheed Sikander Bakht Sahiba, mother and wife respectively of the ruler of Mohammadgarh (Madhya Pradesh), for the purposes of that entry and directs that the exemption shall be valid in respect of one rifle/pistol and one gun in each case.

[No F 16/7/62-P.IV]

K. CHATTERJEE, Under Secy.

New Delhi, the 22nd January 1963

S.O. 255.—In exercise of the powers conferred by clause (1) of article 258 of the Constitution, the President, with the consent of the Government of Gujarat, hereby entrusts also to the Deputy Inspector General of Police, Criminal Investigation Department, Gujarat State, Ahmedabad, in respect of all the districts of Gujarat State except Kutch, the functions of the Central Government in making orders of the nature specified in clauses (a), (b), (c) and (cc) of sub-section (2) of section 3 of the Foreigners Act, 1946 (31 of 1946), subject to the following conditions, namely:—

- (a) that the functions so entrusted shall be exercised in respect of nationals of Pakistan;
- (b) that in the exercise of such functions the said Deputy Inspector General of Police shall comply with such general or special directions as the Government of Gujarat or the Central Government may from time to time issue, and
- (c) that notwithstanding this entrustment, the Central Government may itself exercise any of the said functions should it deem fit to do so in any case.

[No. F. 1/41/62-F.III.]
FATEH SINGH, Jt. Secy.

New Delhi, the 22nd January 1963

S.O. 256.—In pursuance of clause (1) of article 239 of the Constitution, the President hereby directs that, subject to his control and until further orders, the Administrators (whether known as Lieutenant Governor, Chief Commissioner or Administrator) of the Union territories of Delhi, Himachal Pradesh, Manipur, Tripura, Andaman and Nicobar Islands, Laccadive, Minicoy and Amindivi Islands, Dadra and Nagar Haveli, Goa, Daman and Diu and Pondicherry shall, within their respective territories, exercise the powers, and discharge the functions, of the State Government under the Personal Injuries (Emergency Provisions) Act, 1962 (59 of 1962), the Personal Injuries (Emergency Provisions) Scheme, 1962 and the Personal Injuries (Emergency) Regulations, 1962.

[No. F. 2/13/62-JudL.II.]

CORRIGENDUM

New Delhi, the 22nd January 1963

S.O. 257.—In the Bombay Labour Welfare Board (Reconstitution) Amendment Order, 1962, published with the notification of the Government of India, in the Ministry of Home Affairs No. S.O. 3658 dated the 3rd December, 1962, in the Gazette of India, Part II, Section 3(ii) dated the 8th December, 1962,

- (i) in the first line of paragraph 2, for "State I" read "Statement I";
- (ii) in Statement IV appended to paragraph 5, against item 4 under the heading 'Hubli', for "Shri S. T. Mununnawalli" read "Shri S. T. Munnawalli".

[No. F. 8/2/62-SR(R).]

P. N. KAUL, Dy. Secy.

New Delhi, the 25th January 1963

S.O. 258.—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Central Civil Services (Classification, Control and Appeal) Rules, 1957, namely:—

1. These rules may be called the Central Civil Services (Classification, Control and Appeal) First Amendment Rules, 1963.

2. In Part II of the Schedule to the Central Civil Services (Classification, Control and Appeal) Rules, 1957, against "Labour Officers, Class II" in column 1, below '(u) Office of the Surveyor General of India' and the entries relating thereto in columns 3 and 4, the following shall be inserted, namely:—

3	4
“(v) ational Dairy Research nstitute, Karnal.	Director National Dalry Research Institute, Karnal. (i) to (iii)”

[No. 7/1/63-Ests(A).]

U. S. BAJPAI, Under Secy.

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 24th January, 1963

S.O. 259.—In pursuance of sub-sections (3) and (5) of Section 11 of the Port Haj Committees Act, 1932 (XX of 1932), the election of Capt. M. A. Golandaz

as Chairman of the Port Haj Committee, Bombay at the meeting of the committee held on the 13th December, 1962, is hereby approved and notified.

[No. M. II-1181(13)-62.]

K. R. P. SINGH, Director.

MINISTRY OF FINANCE

(Department of Economic Affairs)

New Delhi, the 21st January 1963

S.O. 260.—In exercise of the powers conferred by section 53 of the Banking Companies Act, 1949 (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of section 9 of the said Act shall not apply to the Southern Bank Ltd., Calcutta in respect of the property held by it at Basirhat Town, 24 Parganas, West Bengal, till the 31st December 1964.

[No. F. 15(10)-BC/62.]

B. J. HEERJEE, Under Secy.

(Department of Economic Affairs)

New Delhi, the 22nd January 1963

S.O. 261—Statement of the Affairs of the Reserve Bank of India, as on the 11th January 1963.

BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	10,88,97,000
Reserve Fund	80,00,00,000	Rupee Coin	1,43,000
National Agricultural Credit (Long Term Operations) Fund	61,00,00,000	Small Coin	2,92,000
National Agricultural Credit (Stabilisation) Fund	7,00,00,000	National Agricultural Credit (Long Term Operations) Fund	
		(a) Loans and Advances to :—	
		(i) State Governments	23,81,26,000
		(ii) State Co-operative Banks	11,29,72,000
		(iii) Central Land Mortgage Banks
		(b) Investment in Central Land Mortgage Bank Debentures	2,84,88,000
Deposits:—		National Agricultural Credit (Stabilisation) Fund	
(a) Government		Loans and Advances to State Co-operative Banks
(i) Central Government	52,45,21,000	Bills purchased and Discounted :—	
(ii) State Governments	25,69,43,000	(a) Internal
(b) Banks		(b) External
(i) Scheduled Banks	73,36,56,000	(c) Government Treasury Bills	66,36,61,000
(ii) State Co-operative Banks	1,70,88,000	Balances held Abroad*	19,32,10,000
(iii) Other Banks	5,89,000	Loans and Advances to Governments**	15,04,36,000
(c) Others	162,02,81,000	Loans and Advances to :—	
Bills Payable	31,99,11,000	(i) Scheduled Banks†	25,04,30,000
Other Liabilities	48,51,21,000	(ii) State Co-operative Banks††	136,84,09,000
		(iii) Others	1,39,57,000
		Investments	212,91,21,000
		Other Assets	32,99,68,000
Rupees	548,81,10,000	Rupees	548,81,10,000

*Includes Cash and Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

† Includes Rs. 15,98,00,000 advanced to scheduled banks against usance bills under Section 17(4) (c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 16th day of January, 1963,

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 11th day of January 1963.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	10,88,97,000		Gold Coin and Bullion :—		
			(a) Held in India	117,76,10,000	
Notes in circulation	2183,78,47,000		(b) Held outside India	
			Foreign Securities	88,08,43,000	
Total Notes issued		2194,67,44,000			
			TOTAL		205,84,53,000
			Rupee Coin		120,39,31,000
			Government of India Rupee Securities		1868,43,60,000
			Internal Bills of Exchange and other commercial paper
TOTAL LIABILITIES		2194,67,44,000	TOTAL ASSETS		2194,67,44,000 ⁰

Dated the 16th day of January, 1963.

P. C. BHATTACHARYYA,
Governor.

[No. F. 3(2)-BC/63.]

(Department of Economic Affairs)

New Delhi, the 25th January 1963

S. O. 262—Statement of the Affairs of the Reserve Bank of India, as on the 18th January 1963
BANKING DEPARTMENT

LIABILITIES	Rs.	ASSETS	Rs.
Capital paid up	5,00,00,000	Notes	10,53,81,000
Reserve Fund	80,00,00,000	Rupee Coin	1,86,000
National Agricultural Credit (Long Term Operations) Fund	61,00,00,000	Small Coin	2,48,000
National Agricultural Credit (Stabilisation) Fund	7,00,00,000	National Agricultural Credit (Long Term Operations) Fund—	
Deposits:—		(a) Loans and Advances to:—	
(a) Government		(i) State Governments	23,79,50,000
(i) Central Government	53,86,51,000	(ii) State Co-operative Banks	11,15,27,000
(ii) State Governments	20,36,82,000	(iii) Central Land Mortgage Banks	2,84,88,000
(b) Banks		(b) Investment in Central Land Mortgage Bank Debentures	
(i) Scheduled Banks	78,93,21,000	National Agricultural Credit (Stabilisation) Fund—	
(ii) State Co-operative Banks	1,66,23,000	Loans and Advances to State Co-operative Banks	
(iii) Other Banks	5,03,000	Bills purchased and Discounted:—	
(c) Others	164,70,21,000	(a) Internal
Bills Payable	31,97,06,000	(b) External
Other Liabilities	54,57,70,000	(c) Government Treasury Bills	59,56,13,000
Rupees	559,12,77,000	Balances Held Abroad*	7,53,85,000
		Loans and Advances to Governments**	17,57,14,000
		Loans and Advances to:—	
		(i) Scheduled Banks†	27,19,90,000
		(ii) State Co-operative Banks††	136,55,60,000
		(iii) Others	1,41,57,000
		Investments	227,68,96,000
		Other Assets	33,21,82,000
		Rupees	559,12,77,000

*Includes Cash and Short-term Securities.

**Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund, but including temporary overdrafts to State Governments.

†Includes Rs. 16,43,00,000 advanced to scheduled banks against usance bills under section 17(4)(c) of the Reserve Bank of India Act.

†† Excluding Loans and Advances from the National Agricultural Credit (Long Term Operations) Fund and the National Agricultural Credit (Stabilisation) Fund.

Dated the 23rd day of January, 1963.

An Account pursuant to the Reserve Bank of India Act, 1934, for the week ended the 18th day of January, 1963.

ISSUE DEPARTMENT

LIABILITIES	Rs.	Rs.	ASSETS	Rs.	Rs.
Notes held in the Banking Department	10,53,81,000		Gold Coin and Bullion :—		
Notes in circulation	2184,17,49,000		(a) Held in India	117,76,10,000	
Total Notes issued		2194,71,30,000	(b) Held outside India	..	
			Foreign Securities	88,08,43,000	
			TOTAL		205,84,53,000
			Rupee Coin		120,43,17,000
			Government of India Rupee Securities		1868,43,60,000
			Internal Bills of Exchange and other commercial paper		..
TOTAL LIABILITIES		2194,71,30,000	TOTAL ASSETS		2194,71,30,000

Dated the 23rd day of January, 1963.

P. C. BHATTACHARYYA,
Governor

[No. F. 3(2)-BC/63.]

A. BAKSI, Joint Secy.

(Department of Revenue)

CUSTOMS

New Delhi, the 2nd February 1963

S.O. 263.—In exercise of the powers conferred by sub-section (2) of section 79 read with sub-section (3) of section 160 of the Customs Act, 1962 (52 of 1962), the Central Government hereby makes the following rule to further amend the Ceylon Baggage Rules issued with the notification of the Central Board of Revenue No. 31-Customs, dated the 30th August, 1930, namely:—

In the said Ceylon Baggage Rules,—

(i) the following shall be inserted as rule (3), namely:—

“(3) Such instruments, apparatus or appliances, as are specially designed for use in the profession or calling followed by a passenger and which any person following the same profession or calling would usually carry with him in his professional tour, when imported by the passenger as part of his *bona-fide* baggage may be allowed to be imported free of import duty leviable thereon:

Provided that the instruments, apparatus or appliances,—

- (a) have been actually used by the passenger before importation thereof; and
- (b) shall not be sold, exchanged or given away as gift after importation thereof.”;

(ii) in rule 6, the words “in Portuguese India or” shall be omitted.

[No. 34.]

J. BANERJEE, Dy. Secy.

(Department of Revenue)

GIFT TAX

New Delhi, the 21st January 1963

S.O. 264.—In exercise of the powers conferred by sub-section (2) of section 1 of the Gift-tax (Amendment) Act, 1962 (53 of 1962), the Central Government hereby appoints the 1st day of April, 1963, as the date on which the said Act shall come into force.

[No. GT-1/1963/F. No. 13/1/63-G.T.]

S. R. MEHTA, Dy. Secy.

CENTRAL BOARD OF REVENUE

INCOME TAX

New Delhi, the 19th January 1963

S.O. 265.—In exercise of the powers conferred by section 126 of the Income-tax Act, 1961 (43 of 1961) and in supersession of serial number 2A of the Board's notification No. 44-IT, dated the 1st July 1952, the Central Board of Revenue appoints the officers specified in the 3rd, 4th, 5th and 6th columns of the Schedule below, to perform all the functions of an Income-tax Officer, Inspecting Assistant Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax and the Commissioner of Income-tax respectively in respect of the persons specified in the corresponding entry in the 2nd column thereof:—

Provided that nothing herein contained shall apply to cases or classes of cases assigned to Commissioners of Income-tax (without reference to area) in pursuance of directions issued under sub-section (1) of section 121 of the said Act.

SCHEDULE

Sl. No.	Persons	Income-tax Officer	Inspecting Assistant Commissioner of Income-tax	Appellate Assistant Commissioner of Income-tax	Commissioner of Income-tax
1	2	3	4	5	6
2A	Salaried employees of the Southern Railway who are under the audit control of the Divisional Accounts Officer, Olavakkot, Palghat District, Kerala State.	Additional Income-tax Officer, Palghat.	Inspecting Assistant Commissioner of Income-tax who has been appointed to perform the function of an Inspecting Assistant Commissioner in the area where the Income-tax Officer, referred to in Column 3 has jurisdiction.	Appellate Assistant Commissioner of Income-tax who has been invested with powers to hear appeals against the decision of the Income-tax Officer referred to in Column 3.	Commissioner of Income-tax, Kerala, Ernakulam.

[No. 5 (F. No. 55/14/63-IT).]

J. RAMA IYER, Under Secy.

MINISTRY OF STEEL AND HEAVY INDUSTRIES

(Department of Iron and Steel)

New Delhi, the 25th January 1963

S.O. 266/ESS.COMM/IRON & STEEL-2(c)/AM(99).—In exercise of the powers conferred by sub-clause (c) of clause 2 of the Iron and Steel (Control) Order, 1956, the Central Government hereby directs that the following further amendment shall be made to the Notification of the Government of India, in the Ministry of Steel, Mines and Fuel, No. S.R.O. 2041/ESS.COMM/IRON & STEEL-2(c), dated the 11th June, 1957, as amended from time to time, namely:—

In the Schedule annexed to the said Notification, in columns 2 and 3 thereof, against 'OTHERS' for the existing entry No. 29, the following shall be substituted, namely:—

2	3
"29. Assistant Iron and Steel Controllers, Offices of the Iron and Steel Controller at Calcutta, Bombay, Madras and Delhi, and the Assistant Director (Grade I) (Steel) under the Administrative Control of the Iron and Steel Controller, Calcutta.	4, 5, 10, 11, 12, 15, 18, 20, 22, 23, 24 and 27." (Powers under the Clauses should be exercised only in respect of freezing of imports against licences issued by them.)

[No. SC(A)-2(10)/61.]

S.O. 267/Ess.Comm/Iron & Steel-2(c)/AM(100).—In exercise of the powers conferred by sub-clause (c) of clause 2 of the Iron and Steel (Control) Order, 1956, the Central Government hereby directs that the following further amendment shall be made to the Notification of the Government of India, in the Ministry of Steel, Mines and Fuel, No. S.R.O. 2041/ESS.COMM/IRON & STEEL-2(c), dated the 11th June, 1957, and as amended *vide* Notification dated 13th October, 1962, namely:—

In the Schedule annexed to the said Notification, in columns 1 to 3 thereof, that the following entries shall be inserted for Maharashtra below serial No. 6, namely:—

1	2	3
Maharashtra	7. All Chief Executive Officers and Block Development Officers in the State of Maharashtra.	4 and 5.

[No. SC(A)-2(12)/62.]

A. N. RAJAGOPALAN, Under Secy.

MINISTRY OF HEALTH

New Delhi, the 21st January 1963

S.O. 268.—In exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consultation with the Medical Council of India, hereby directs that the Medical qualification "Doctor of Medicine" granted by the University of Saskatchewan, Canada shall be a recognised medical qualification for the purposes of the said Act.

[No. F. 16-20/62-MI.]

ORDER

New Delhi, the 22nd January 1963

S.O. 269.—Whereas the Government of India in the Ministry of Health has, by notification No. 16-20/62-MI, dated the 21st January, 1963, made in exercise of the powers conferred by sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956), recognised the medical qualification "Doctor of Medicine" granted by the University of Saskatchewan, Canada for the purposes of the said Act;

Now, therefore, in exercise of the powers conferred by the proviso to sub-section (1) of section 14 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government hereby specifies the period of two years with effect from the date of this Order or so long as Dr. Peter John Block, who possesses the said qualification, continues to work in the American Mennonite Brethren Mission, Mahbubnagar, Andhra Pradesh, to which he is attached for the time being for the purposes of teaching, research or charitable work, whichever is shorter, as the period to which the medical practice of the said Dr. Peter John Block shall be limited.

[No. F. 16-20/62-MI.]

B. B. L. BHARADWAJ, Under Secy.

New Delhi, the 23rd January 1963

S.O. 270.—In exercise of the powers conferred by sub-section (1) of section 12 of the Delhi Development Act, 1957 (61 of 1957), the Central Government, after consultation with the Delhi Development Authority and the Municipal Corporation of Delhi, hereby makes the following amendments in the notification of the Government of India in the Ministry of Health No. F. 12-192/57-LSG, dated the 28th February, 1959, namely:—

In Schedule VI to the said notification, from the area of Ramji Nagar and Naraina Villages, the area known as Inderpuri measuring approximately 91.5 acres and bounded as under, shall be excluded:

NORTH:	Remaining land of village Naraina;
SOUTH:	Cantonment boundary;
EAST:	Agricultural Research Institute (Pusa); and
WEST:	Remaining land of village Naraina.

[No. F. 8-14/61-L.S.G.]

A. K. DAR, Under Secy.

MINISTRY OF TRANSPORT & COMMUNICATIONS

(Department of Transport)

(Transport Wing)

PORTS

New Delhi, the 24th January, 1963.

S.O. 271.—In pursuance of sub-section (2) of section 6 of the Calcutta Port Act, 1890 (III of 1890), it is hereby notified that in accordance with the provisions of section 16 of the said Act, Shri R. P. Goenka of Duncan Bros. Company Limited, 31, Netaji Subhas Road, Calcutta has been elected by the Bengal National Chamber of Commerce and Industry, Calcutta, to be a commissioner for the Port of Calcutta vice Shri B. P. Bajoria resigned.

[No. 9-PG(84)/62.]

HARBANS SINGH, Under Secy.

(Department of Communications and Civil Aviation)

New Delhi, the 25th January, 1963

S.O. 272.—In exercise of the powers conferred by sub-section (2) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby directs that the provisions of the said Act, shall apply to the Provident Fund established for the benefit of the employees of the Indian Airlines Corporation.

[No. 7-CA(11)/60.]

S.O. 273.—In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (19 of 1925), the Central Government hereby adds the name of the Indian Airlines Corporation to the Schedule to the said Act.

[No. 7-CA(11)/60.]

K. GOPALAKRISHNAN, Dy. Secy.

MINISTRY OF IRRIGATION & POWER

New Delhi, the 22nd January 1963

S.O. 274.—In exercise of the powers conferred by sub-section (2) (d) of Section 36A of the Indian Electricity Act, 1910, and in partial modification of this Ministry's Notification No. EL.II-4(4)/59, dated the 1st November, 1959, the Central Government hereby nominates Shri K. L. Vij, Member, Central Water and Power Commission (Power Wing), as a member on the Central Electricity Board to represent the Union territories of Manipur, Tripura and the Andaman and Nicobar Islands, vice Shri S. S. Kumar.

[No. EL.II-8(3)/62.]

N. S. VASANT,

Officer on Special Duty.

MINISTRY OF WORKS, HOUSING & REHABILITATION

(Department of Rehabilitation)

New Delhi, the 19th January 1963

S.O. 275.—Whereas the Central Government is of opinion that it is necessary to acquire the evacuee properties in the state of Delhi specified in the Schedule below, for a public purpose, being a purpose connected with the relief and rehabilitation of displaced persons, including payment of compensation to such persons.

Now, therefore in exercise of the powers conferred by section 12 of Displaced Persons (Compensation & Rehabilitation) Act, 1954 (44 of 1954), it is notified that the Central Government has decided to acquire, and hereby acquires the said evacuee properties (Specified in the schedule below):—

THE SCHEDULE.

Sl. No.	Particulars of evacuee property	Name of the town and locality in which the evacuee property is situated	Name	Parentage of evacuee
1.	III/1356 (Old)/2841 (New)	Dhobiwara, Mori Delhi.	Shri Mohd. Ishaq.	Not Known.
2.	X VIII/168 (old), 326 (new)	Bagh Kare Khan	Shri Abdul Ghani	..
3.	VI/554 (Old)	Shahdara, Delhi	Shri Nasru	Shri Murad Saqqa.
4.	VII/531 (old)	Shahdara, Delhi.	Shri Nasru	Shri Murad Saqqa.
5.	X/7/8	Chhatta Lal Mian, Delhi.	Shri Shaddu	Shri Ramzani.

[No. 13(2) Comp.&Prop/61.]

M. J. SRIVASTAVA,

**Settlement Commissioner &
Ex-Officio Under Secy.**

DELHI DEVELOPMENT AUTHORITY

New Delhi, the 28th January, 1963

S.O. 276.—In supersession of this office Notification No. L. 16(33) 54, dated 16th October 1959, and in pursuance of the provisions of sub-section (4) of Section 22 of the Delhi Development Act, 1957, the Delhi Development Authority has replaced at the disposal of the Central Government the land described in the schedule below for placing it at the disposal of the Land and Development Officer, Ministry of Works Housing and Supply, Government of India, New Delhi.

SCHEDULE

Piece of land measuring 1646.66 sq. yds. bearing khasra Nos. 235/106-36 min. and 45 min. situated in Bela Estate.

The above piece of land is bounded as follows:—

NORTH: Cremation ground.

SOUTH: Pucca road to Gita Bhawan.

EAST: Pucca road.

WEST: Nazul land under the possession of unauthorised occupants and Dharam Singh.

[No. L. 16(33)54.]

R. K. VAISH, Secy.

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 19th January 1963

S.O. 277.—Whereas the Government of the State of Andhra Pradesh has, in pursuance of the powers conferred by clause (d) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), nominated Shri S. A. Iyengar, Secretary to the Government of Andhra Pradesh, Home (Labour II) Department, as a member of the Employees' State Insurance Corporation representing that Government.

Now, therefore, in pursuance of the provisions of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 1879, dated the 11th June, 1962, namely:—

In the said notification, under the heading "Members", under the sub-heading "(Nominated by the State Governments under clause (d) of section 4)" in item 7, for the entries "Shri I. Ramchander Rao", the entries "Shri S. A. Iyengar" shall be substituted.

[No. F. 1(53)/63-HI.]

S.O. 278.—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 27th January, 1963, as the date on which the provisions of Chapter IV (except sections 44 and 45 which have already been brought into force), and Chapters V and VI (except sub-section (1) of section 76 and sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas of Avadi and Pattabiram in the State of Madras, namely:—

1. The areas within the revenue villages of:—

- (a) Avadi. Hamlet of Paruthipattu;
- (b) Pattabiram, Hamlet of Thandarai;
- (c) Vilinjambakkam;
- (d) Chorancheri;
- (e) Paleripattu;
- (f) Veeraraghavapuram; and
- (g) Kaduvetti

in Sriperumbudur Taluk, Chingleput District.

2. The areas within the revenue villages of:—

- (a) Padi; and
- (b) Kakapallam

in Saidapet Taluk, in Chingleput District.

[No. F. 13(18)/63-HI.]

New Delhi, the 21st January 1963

S.O. 279.—Whereas the Government of the State of Mysore has, in pursuance of the powers conferred by clause (d) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), nominated Shri R. Anandakrishna, Secretary to the Government of Mysore, Public Health, Labour and Municipal Administration Department, as a member of the Employees' State Insurance Corporation representing that Government;

Now, therefore, in pursuance of the provisions of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Labour and Employment, No. S.O. 1879, dated the 11th June, 1962, namely:—

In the said notification, under the heading "Members", under the sub-heading "(Nominated by the State Governments under clause (d) of section 4)" in item 15, for the entries "Shri M. S. Shanker Rao", the entries "Shri R. Anandakrishna" shall be substituted.

[No. F. 1(55)/63-HI.]

New Delhi, the 23rd January, 1963

S.O. 280.—In pursuance of sub-section (1) of section 86 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby authorises the Deputy Regional Directors of the Employees' State Insurance Corporation to institute prosecutions or accord previous sanction to prosecutions under the said Act.

[No. F. 1(51)/62-HI.]

S.O. 281.—Whereas the Central Government is satisfied that the employees of Telegraph Workshops, Alipore, Calcutta, the Telephone Workshops, Bombay, Telegraph Workshops, Jabalpure and the Senior Electrical Engineer's Test Rooms, Calcutta, belonging to the Posts and Telegraphs Department under the control of the Government of India in the Ministry of Transport and Communications, are otherwise in receipt of benefits substantially similar or superior to the benefits provided under the Employees' State Insurance Act, 1948 (34 of 1948);

Now, therefore, in exercise of the powers conferred by section 90 of the said Act and in continuation of notifications of the Government of India in the Ministry of Labour and Employment, Nos. S.O. 286 and S.O. 287, dated the 22nd January, 1962, the Central Government hereby exempts each of the above-mentioned factories from all the provisions of the said Act for a further period of one year with effect from the 1st February, 1963.

[No. F. 6(66)/62-HI.]

O. P. TALWAR, Under Secy.

New Delhi, the 21st January 1963

S.O. 282.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the Victoria West Colliery of Messrs New Birbhum Coal Company Limited and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 44 OF 1962

PARTIES:

Employers in relation to the Victoria West Colliery of M/s. New Birbhum Coal Co. Ltd.,

AND

Their Workmen.

PRESENT:

Shri L. P. Dave—*Presiding Officer*.

APPEARANCES:

On behalf of employers: Mr. R. Goswami, an Officer of the Bengal Chamber of Commerce & Industry.

On behalf of workmen: Mr. Nikhil Ranjan Roy, Member, Executive Committee of the I.N.T.U.C., Bengal Branch.

STATE: West Bengal.

INDUSTRY: Coal Mines.

AWARD

The Government of India, Ministry of Labour and Employment, by their order No. 6/10/62-LRII, dated 23rd November 1962 have referred the industrial dispute existing between the employers in relation to the Victoria West Colliery of Messrs. New Birbhum Coal Company Limited, P.O. Barakar, Burdwan and their workmen in respect of the following matters for adjudication to this Tribunal:—

"Whether the Order dated 14th June 1962 of the Victoria West Colliery dismissing Shri Umanath Shaw, haulage khalasi, from service with retrospective effect, viz., from the 8th May, 1962, was lawful. If not, to what relief is the said workman entitled?"

2. When the matter came up for hearing before me to-day, the parties informed me that the matter has been amicably settled between them and produced a memorandum of settlement before me (copy appended herewith). The dispute relates to the dismissal of a workman named, Shri Umanath Shaw. Under the terms of settlement, the management have agreed to reinstate him within a fortnight from to-day in any of the collieries under the same Managing Agency and it has also been agreed that the period of unemployment is to be treated as on leave without pay and without break in the continuity of service. The workman concerned has agreed to the settlement. In my opinion, it is fair and reasonable and I accept it.

I therefore pass an award in terms of settlement.

(Sd.) L. P. DAVE,
Presiding Officer.

Dated the 10th January, 1963.

BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

IN THE MATTER OF REFERENCE No. 44 OF 1962,

AND

ON THE MATTER OF AN INDUSTRIAL DISPUTE

BETWEEN

Employers in relation to the Victoria West Colliery of Messrs. New Beerbhum Coal Co., Ltd., P.O. Narakar, District Burdwan,

AND

Their workmen represented by Colliery Mazdoor Union, Asansol.

MEMORANDUM OF SETTLEMENT

The parties, aforesaid, most respectfully beg to submit that the aforesaid matter has been amicably settled between the parties on joint negotiations on the following terms:—

- (1) That the Management agreed to reinstate Shri Uma Nath Shaw, Haulage Khalasi, the workman concerned in the dispute, within a fortnight from this date;

- (2) That the Management agreed to treat the period of unemployment of Shri Uma Nath Shaw from the date of his dismissal till he is reinstated, as leave without pay and without any break in the continuity of his service;
- (3) That the Management will reinstate him in any colliery under the Managing Agency of Messrs. Andrew Yule & Company Limited;
- (4) That the parties shall bear their own costs;
- (5) That the parties pray that this Hon'ble Tribunal may be graciously pleased to give its award in terms aforesaid.

Colliery Mazdoor Union.
For the Workmen.
Dated 10-1-63.

Sd./- KESHAB BANERJEE,
10-1-1963.

Sd./- UMANATH SHAW.

Sd./- NIKHIL R. ROY.
10-1-1963.

For the Employers.
Dated 10-1-1963.

Sd./- ILLEGIBLE,
Security Officer.

Sd./- R. GOSWAMI.

[No. 6/10/62-LRII.]

S.O. 283.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Calcutta, in the industrial dispute between the employers in relation to the New Jemehari Khas Colliery and their workmen.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

REFERENCE No. 33 OF 1962

PARTIES:

Employers in relation to the New Jemehari Khas Colliery, P.O. J.K. Nagar, Burdwan, West Bengal

AND

Their workmen.

PRESENT:

Shri L. P. Datta— *Presiding Officer.*

APPEARANCES:

On behalf of Employers—Shri D. C. Deb, Secretary, New Jemehari Khas Colliery.

On behalf of Workmen—Shri Kalyan Roy, Vice-President, Colliery Mazdoor Sabha.

STATE: West Bengal.

INDUSTRY: Coal Mines

AWARD

The Government of India, Ministry of Labour & Employment, by their order No. 2/71/62-LRII, dated 27th July 1962, have referred the industrial dispute existing between the employers in relation to the New Jemehari Khas Colliery and their workmen in respect of the question whether the termination of the services of Shri Ramdhan Rajbhar by the management of the said colliery was justified, and if not, to what relief he was entitled, for adjudication to this Tribunal.

(2) The workmen's case as made out in their statement is that Shri Ramdhan Rajbhar was working as a loader for a long time; that he went home on leave in the month of January 1962 and later on applied from his home for an extension of leave on account of his illness and sent a medical certificate with it; that his family members were also ill; that he came back on 28th February 1962 but was not allowed to join his duty; that no reason was given nor was any letter issued to him and ultimately he was dismissed by a letter dated 31st March 1962 which was in violation of principles of natural justice and in violation of the provisions of the Standing Orders. The workmen therefore prayed that he should be reinstated with back wages.

(3) The employers contended by their written statement that Ramdhan Rajbhar was granted leave from 10th January 1962 to 7th February 1962 on his application that his mother was ill at home, that he did not report for duty on the expiry of his leave nor did he send any intimation explaining his absence; that on 23rd February 1962 a cover was received by registered post from him containing an alleged medical certificate mentioning that he was suffering from Typhoid but there was no application for extension of leave; that on 21st February 1962 the management wrote to him asking him to join his duty on pain of losing employment; that a letter was received from him on 5th March 1962 stating that he had to take leave and ask for extension of leave as his wife was seriously ill; that it was thus clear that he absented himself continuously without permission and without satisfactory cause for more than ten days and rendered himself liable to summary dismissal that the management issued him a charge-sheet on 7th March 1962 which he refused to accept; that a letter of enquiry was sent to him which also he refused to accept and he did not attend the enquiry; that thereafter he was dismissed on 31st March 1962 for proved mis-conduct; that the dismissal was appropriate and there was no break of principles of natural justice.

(4) The case refers to the dismissal of a loader named Ramdhan Rajbhar who was working as a loader for about five years. It is an undisputed fact that in December 1961 he asked for one month's leave with effect from 9th January 1962. Though the order on this application was that fourteen days' leave was granted, the management also say that he was actually granted one month's leave from 10th January 1962 to 7th February 1962. It is also an undisputed fact that he did not rejoin his duty immediately on expiry of this leave.

(5) The workmen's case is that after going home both Ramdhan and his wife fell ill. He thereupon sent an application by registered post with a medical certificate asking for extension of leave. This letter appears to have reached the management only on 23rd February 1962 though it was actually posted on 13th February 1962 as would be clear from the postal stamp on the envelope. I am mentioning this to show that the workman had applied for extension of leave very soon after his original leave had expired. It may be remembered that he is an illiterate worker who was staying in a small village and naturally no serious notice should be taken if he did not ask for extension before his leave expired. As I mentioned above, he applied on 13th February 1962 for extension of leave and this was accompanied by a medical certificate stating that he was suffering from typhoid fever.

(6) The management however say that no application was received by them but only the medical certificate was received. This appears to me to be unnatural and improbable. If a person is careful to send a medical certificate, there is no reason why he should not send an application for leave along with it. The workman who has been examined before me has stated on oath that he had sent an application with this medical certificate. I believe him. This application and the envelope were addressed to the Manager. The Manager has not gone in the witness box. The Personnel Officer of the colliery has however been examined and he goes to the length of saying that letters addressed to the Manager are opened by him if they appear from outward appearance to be referring to labour matters. This appears to me to be absurd. The Manager must be opening the letters and then transferring letters relating to labour to the Personnel Officer. Hence it was the manager who would be the proper person to state whether the above envelope contained the application or not. The management do not maintain an inward register which would have shown whether an application was actually received. I am satisfied that the workman did send an application for extension of leave on 13th February 1962 supported by a medical certificate. This however reached the management on 23rd February, 1962.

(7) In the meanwhile, on 21st February, 1962, the management sent a letter by registered post to the workman stating that he had overstayed his leave. He was therefore asked to rejoin his duties within a week failing which his services would be treated as terminated. This letter appears to have been received by the workman on 23rd February 1962.

(8) Even though the management received the workman's medical certificate on 23rd February 1962 after they sent the above letter, they did not think it fit to revise their original order. This appears to me to be rather improper. I can appreciate the management's writing a letter on 21st February 1962 asking the workman to join within a week. At that stage, they did not know why the workman had not resumed his duties. But when on 23rd February 1962 they got a medical certificate stating that the workman was suffering from typhoid, they should either have granted him an extension of leave or refused the same or

done something about that letter and intimated to him about it. Nothing was done and the Personnel Officer in his deposition says that they would have allowed him to join his duties when he came to the colliery after recovery but for the fact that he made false and contradictory statements. By implication therefore this means that the management had in effect granted (or at least decided to grant) this application of the workman for extension of leave.

(9) In any case, by the letter of 21st February 1962, the management had asked the workman to join within a week failing which the services were to be terminated. In other words, at least the workman was entitled to join his duties till 28th February 1962 and he says that he actually reported for duty on that day.

(10) The management deny this and allege that the workman reported for duty only on 5th March 1962. Here again, we have the evidence of the workman concerned and I prefer to believe him rather than believing the Personnel Officer who could have no knowledge if the workman had reported for work to the manager. In this connection, the workman has said that he had given a letter on 28th February 1962 which fact is denied by the management. But in any case, the management have produced a letter dated 3rd March 1962 alleging that it was received on 5th March 1962 and this letter contains a specific recital that the workman had reported for duty on 28th February 1962. Neither in the chargesheet nor by a separate letter has this allegation been denied. I therefore believe the workman concerned and hold that he reported for duty on 28th February 1962, but he was not allowed to resume duty. Having reported for duty in the time allowed to him by the management by their letter of 21st February 1962, the management were neither justified in refusing to allow him to join nor were they justified in dismissing him. His dismissal is therefore on the face of it improper.

(11) Apart from this, he has been dismissed without any enquiry or even without service of a chargesheet on him. The management allege that he was served with a chargesheet dated 7th March 1962 which was sent to him through a peon but he refused to accept delivery and further that a letter fixing the date of enquiry was issued to him on 9th March 1962 and was again sent through a peon and it was also refused. We have no reliable evidence on this point. The Personnel Officer could have no personal knowledge as to whether the notice and the letter were actually tendered to the workman. The peon who is alleged to have been entrusted with this work has not been examined as a witness. The peon book has also not been produced. In this connection, I may mention that at the time of the conciliation proceedings also, the peon book was not produced but later on the manager wrote a letter to the Conciliation Officer asking for permission to produce it. The management therefore knew the importance of this peon book and still for reasons best known to them, they have not cared to produce it before this Tribunal. Of course, even if the peon book had been produced, it would have little value in the absence of the peon concerned.

(12) It is also not understood why the chargesheet or the letter fixing the date of enquiry were not sent by registered post. The Personnel Officer has stated that when the management apprehended that the workman may not accept the chargesheet or when a chargesheet sent through a peon is refused, they usually sent it by registered post. Why was this procedure not followed in the present case? The Personnel Officer has not been able to give any explanation on the point. I am not satisfied that any chargesheet was issued or tendered to the workman concerned.

(13) In this connection, one more serious thing has been brought to my notice. It is that the chargesheet which is now produced before this Tribunal is to the effect that the workman had been continuously absent without permission and satisfactory cause for more than ten days from 8th February 1962. From the deposition of the Personnel Officer, it appears that he and the Manager had taken a serious view against the workman for making false and contradictory statements. They were otherwise prepared to allow him to join duty. According to the Personnel Officer, the workman had even admitted before him that neither he nor his wife had suffered any illness and still curiously enough in the chargesheet produced before the Tribunal, there is no such allegation.

(14) The matter does not merely rest here. It appears that the chargesheet which the management had produced before the Conciliation Officer was not the one which is now produced before this Tribunal. In the Conciliation Officer's failure report, it has been stated "the Union stated that the chargesheet dated 7th March 1962 is an afterthought as nothing had been mentioned about it in the termination letter and that the chargesheet shown by the management was not

or unauthorised leave but for some other thing." The last words are important. The chargesheet which was shown by the management to the Conciliation Officer did not contain any allegation about the workman's being absent without leave or without authority but it contained some other allegations. I have gone through the file of the Conciliation Officer and I find that the management's version before him was that the workman was chargesheeted on 7th March 1962 for making false and contradictory statements. This would mean that the management have deliberately cooked up a new chargesheet before this Tribunal and that the chargesheet which is now produced here is something different from one which was produced before the Conciliation Officer. Such conduct on the part of the management is to say the least reprehensible.

(15) It may then be noted that even after the alleged chargesheet was issued and even after the letter fixing the date of enquiry was fixed, no enquiry was actually held as admitted by the Personnel Officer. No witness was called, no one was questioned and no statement was recorded. The Manager and Personnel Officer discussed the matter and held the charge proved and decided to dismiss the workman and still it took another twenty-one days before the order of dismissal was passed. This delay of 21 days and the fact that the order of dismissal does not mention anything about a chargesheet also go to show that no chargesheet must in fact have been issued.

(16) On the whole, I hold firstly that the workman had asked for extension of leave supporting the application with a medical certificate and by implication the said application had been granted. I further hold that the workman was given time to join his duties at least upto 28th February 1962 and that he in fact joined his duties on that date but was not allowed to work. I lastly hold that no chargesheet was issued, no enquiry was held and the dismissal was in any case not proper.

(17) In the result, the workman is ordered to be reinstated in service. He should also be paid full wages with effect from 28th February 1962. The period of his absence upto 27th February 1962 should be treated as on leave with or without pay as may be admissible to him. There will be continuity of service and the workman will be entitled to all benefits as if he has been on duty from 28th February, 1962. The employers shall pay Rs. 100 (One hundred) as costs of the workmen.

I pass my award accordingly.

Dated,

The 11th January, 1963.

L. P. DAVE,
Presiding Officer.

[No. 2/71/62-LRII.]

New Delhi, the 22nd January 1963

S.O. 284.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to the Madhuband Colliery, P.O. Nudkhurkee (Dhanbad) and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

In the matter of a reference under Section 10(1) (d) of Industrial Disputes Act, 1947 (XIV of 1947).

REFERENCE No. 20 OF 1962

PARTIES:

Employers in relation to the Madhuband Colliery, P.O. Nudkhurkee
(Dhanbad)

AND

Their workmen.

PRESENT:

Shri Raj Kishore Prasad, M.A., B.L.,—Presiding Officer.

APPEARANCES:

For the Employers: Shri S. S. Kapoor, Chief Personnel Officer.

For the Workmen: Shri Achariar, General Secretary, Hindusthan Khan Mazdoor Sangh.

STATE: Bihar.

INDUSTRY: Coal.

Dhanbad, the 26th December, 1962.

AWARD

1. The Ministry of Labour & Employment, Government of India, by its Order No. 2/59/62-LRII, dated the 9th July, 1962, has referred, under Section 10(1) (d) of the Industrial Disputes Act, 1947, for adjudication by this Tribunal, the following industrial dispute:—

“Whether the dismissal of S/Shri Harbhajan Singh, underground Munshi, and, Trilochan Singh, Pump Khalasi, by the management of Madhuband Colliery on the 18th April, 1962, was legal and justified; if not, what relief are they entitled?”

2. The Employers filed their written statement on 10th August 1962, whereas, the workmen filed their statement of demands, through their Union, Hindusthan Khan Mazdoor Sangh, on 25th August 1962.

3. The case of the management was that the present dispute was an individual dispute, and, therefore, it was outside the scope of the Industrial Disputes Act; that the Hindusthan Khan Mazdoor Sangh, sponsoring the cause of the workmen concerned, is not a representative Union and it does not represent a substantial number of workmen; that the management does not know if the workmen concerned were the members of the above Union; that the Congress Mazdoor Sangh is the recognised and representative Union and is functioning in the colliery since the past many years; that on 22nd January 1962 at about 5 p.m. the two workmen concerned, who are brothers, assaulted Shri Prakash Chandra, Surface Munshi, while he was going to the office to give Raising Report during his duty hours, and, also threatened him with dire consequences; that, therefore, for the above misconduct, charge-sheets were served on these workmen and after receipt of their explanations to the same a departmental enquiry was held by the management in the presence of the workmen; that the workmen were given full opportunity to defend themselves at the domestic enquiry and they participated in the departmental enquiry and also examined witnesses in defence and cross-examined most of the witnesses examined on behalf of the management; that, at the said departmental enquiry, the workmen concerned were found guilty of misconduct, and, therefore, they were dismissed for misconduct in accordance with Standing Order No. 27(5) with effect from 18th April 1962; and, that, therefore, the workmen having been found guilty of misconduct at a properly and fairly conducted departmental enquiry, their dismissal was proper and legal and justified.

4. The workmen in their written statement said that the charge-sheets levelled against them were false; that the so-called departmental enquiry held by the Labour Welfare Officer M.W. 1 of the management was in reality an eye wash; that the findings of the Enquiry Officer were also unwarranted by facts and evidence on record; that the real reason for their dismissal was that these workmen were active members of the Hindusthan Khan Mazdoor Sangh and had given statements before the police against the violent activities of the management's puppet union, namely, Congress Mazdoor Sangh, on 24th December 1961 which was not liked by the management; and, that as the management was greatly perturbed by the growing influence of the Hindusthan Khan Mazdoor Sangh and in order to keep its puppet union alive, these two workmen were picked up for punishment in order to frighten the workmen in general.

5. The specific defence, however, of Harbhajan Singh, one of the two workmen concerned, was a plea of *alibi*. He said that, at the time of the alleged occurrence, i.e. on 22nd January, 1962, at about 5 p.m. he was on duty underground, and, therefore, it was impossible for him to take part in the alleged occurrence in as much as he was on duty underground from 16 hours to midnight and even sometimes after that.

6. The specific defence of Trilochan Singh, brother of Harbhajan Singh, the other workman concerned, was that he had been falsely accused without any basis; that in fact, Shri Prakash Chandra, a man of low character, was in a drunken

state at the time of the alleged occurrence and he abused him (Trilochan Singh) but as he was within his senses, he did not beat Shri Prakash Chandra, at all, but simply avoided him.

7. The management examined Shri S. N. Ram, M. W. 1. its Labour Welfare Officer, who conducted the enquiry. The two workmen examined themselves only as W. W. 1 and W. W. 2.

8. The management filed before this Tribunal Exhibits M to M-25 documents including records pertaining to the departmental enquiry, which are Exhibits M to M-24. The workmen simply filed the Standing Orders For The Coal Mining Industry, Exhibit W.

9. From the documents produced by the management and from the oral evidence adduced by the parties, the facts which emerge may be re-stated, in their chronological order, as below:

- (a) On 22nd January, 1962 at about 5 p.m., it was alleged by the management, that these two workmen, namely, Harbhajan Singh and Trilochan Singh, who are brothers, assaulted P. Chandra, Surface Munshi, near the office while he was coming to the office for giving raising report during his office hours and threatened him with dire consequences;
- (b) On 24th January, 1962 Shri P. Chandra made a written complaint Exhibit M-20 to the Manager of the Colliery. On 28th January, 1962 a charge sheet, Exhibit M, was served on the two workmen stating the facts just mentioned and asking them to show cause why disciplinary action should not be taken against them for the said misconduct. On 2nd February, 1962 both the brothers filed their explanations separately which are Exhibits M-1 and M-2. In their respective explanations they stated their respective specific defences set out earlier in Para 5 and 6 above;
- (c) As the above replies, Exhibits M-1 and M-2, were found unsatisfactory, an open enquiry was directed on 8th February, 1962 and a notice thereof Exhibit M-15 was given by the Enquiry Officer, M.W. 1, to the two workmen on 4th February, 1962.
- (d) On 8th February, 1962, after the statements of the complainant, Sri P. Chandra, Exhibit M. 3, and his witness, Shri K. D. Gupta, Exhibit M-4, had been recorded by the Enquiry Officer, the enquiry was adjourned to 9th February, 1962 as the other witnesses of the complainant were not present (See Exhibit M-16);
- (e) The enquiry continued on 9th February, 1962 and 11th February, 1962 and the witnesses for the complainant Shri P. Chandra, and, the witnesses for the two workmen were examined. The witnesses examined on behalf of the complainant Shri P. Chandra, were Baglu Dusad, Exhibit M-5; Ram Bilas Singh, Exhibit M-6, and, Swaran Singh, Exhibit M-7. All these statements Exhibits M to M-7 of the three witnesses examined by the complainant, Sri Chandra, bear the signatures of the two workmen in token of the said statements having been made in their presence and having cross examined them. These workmen, however, declined to cross-examine Rambilas Singh and Swaran Singh, as will appear from Exhibits M-6 and M-7. Swaran Singh, witness for the complainant, was also questioned by the Enquiry Officer, as will appear from the statement of Swaran Singh, Exhibit M-7. These two workmen examined themselves and some witnesses. The statements of Trilochan Singh are Exhibit M-8; those of Shri Harbhajan Singh, Exhibit M-9; and those of Rameshwar Mahto (Exhibit M. 10), Amar Singh (Exhibit M. 11), Ramharan Budar (Exhibit M. 12), Shri Inderpal Khosala (M-13), and Chetoo Bouri (M-14);
- (f) After the enquiry was finished, the Enquiry Officer, M. W. 1, submitted a very detailed enquiry report on 18th February, 1962. Exhibit M-21, finding that the charges against these workmen concerned in the dispute were established and as assault was a type of misconduct, which must not be viewed lightly, he recommended their dismissal;
- (g) The above enquiry report, Exhibit M-21, as well as the statements of witnesses Exhibits M-3 to M-14, examined by the Enquiry Officer, were then submitted to the Manager, who found the workmen concerned

guilty, and, on 30th March, 1962 recommended the dismissal of these two workmen. (Exhibit M-22). This recommendation of the Manager, Exhibit M-22, on further review and consideration of the evidence, was affirmed by the Agent on 17th April, 1962 (Exhibit M. 23).

- (h) The Agent, thereafter, on 18th April, 1962 issued a letter, Exhibit M. 24, dismissing these workmen for misconduct proved against them;
- (i) The Secretary of the Hindusthan Khan Mazdoor Sangh, representing these workmen, then on 5th May, 1962 referred the dismissal of these two workmen to the Conciliation Officer (Central), Dhanbad, as the Union felt that these cases were really cases of victimisation for trade union activities. The Conciliation Officer, however, submitted his Failure Report on 29th May, 1962, and thereafter, the present reference was made on 9th July, 1962 by the Ministry of Labour & Employment to this Tribunal, as stated earlier; and
- (j) On 22nd September, 1962, as there was a dispute between the Hindusthan Khan Mazdoor Sangh and the Congress Mazdoor Sangh, verification work, which was started, was completed and its result was sent by the Joint Secretary to the Government of India, Implementation and Evaluation Division, to the Agent of Messrs, Karamchand Thapar and Bros. (P) Limited, P.O. Bhowra, Dhanbad, Exhibit M-25, informing him that the relative strength of the two Unions functioning in its colliery on 1st June, 1962, was (1) Hindusthan Khan Mazdoor Sangh 368 members, (2) Congress Mazdoor Sangh 754 members, and, therefore, the management was directed to recognise the Congress Mazdoor Sangh, which had already been recognised by it, as it had been found to be the majority Union.

10. It may be stated, at the outset, that the management did not press its objections in paras 1, 2 and 3 of their written statement, and, therefore, the questions that the present dispute was an individual dispute, and, therefore, outside the scope of the Act, and, that the Hindusthan Khan Mazdoor Sangh, was not a representative Union, were not pressed, and, as such, it is not necessary to express any opinion on the said questions.

11. On behalf of the management, Sri S. S. Kapoor submitted that the enquiry was a very fair and complete enquiry made in presence of the workmen at which they were given full opportunity to defend themselves, and, therefore, the enquiry could not be challenged on any ground whatsoever. He further submitted that the enquiry report, Exhibit M-21, was a very detailed and well reasoned report and the findings of the enquiry officer were based on the evidence produced before him, and therefore, the said report also could not be challenged. It was, therefore, urged, on behalf of the management, that the workmen having been found to have assaulted Shri P. Chandra, an employee of the management, had committed misconduct, and, consequently, they had rightly been found guilty for violating Standing Order No. 25(5), (Exhibit W.), and, dismissed.

12. Sri Achariar, General Secretary, Hindusthan Khan Mazdoor Sangh, representing the two workmen, contended that there was no incident at all as alleged by the management, and therefore, the charge was false and baseless; that the charge was framed in such a manner as to show that Shri P. Chandra, the complainant, was on duty at the time of the occurrence, although he was not; that none of the complainant's witnesses, except Swaran Singh, were asked any question by the Enquiry Officer, but Swaran Singh, was asked by the Enquiry Officer, simply to prove that Shri P. Chandra was not in a drunken state, but all the witnesses examined on behalf of the workmen were cross-examined by the Enquiry Officer to get corroboration of the management's case, and, therefore, these facts show that the Enquiry Officer was in a prejudiced mind; that a very insignificant incident had occurred, which the company does not generally take notice of, but here, because of the Union activities of these two workmen, the company prosecuted them and dismissed them; that the company recognised Congress Mazdoor Sangh and as these workmen deposed against that Sangh in the incident which took place on 24th December, 1961, in which the truck driver and a khalasi of Hindusthan Khan Mazdoor Sangh were assaulted by the Congress Mazdoor Sangh employees, these workmen had been dismissed from service; that, therefore, the enquiry was not fair and principles of natural justice had been violated, and, that on the evidence before this Tribunal in the shape of the records of the departmental enquiry and further evidence, it should be held that the charge was not proved, and, therefore, the dismissal should be set aside.

13. I have very carefully considered the arguments of both sides, and perused the evidence Exhibits M to M-24 given before the Enquiry Officer, M.W. 1 and also the further evidence adduced before this Tribunal, and, after a consideration of the same, my concluded opinion is that the domestic enquiry, in the present case, was conducted in a very fair and thorough manner, in the presence of the workmen, at which they had been given fullest possible opportunity to cross-examine the witnesses examined on behalf of the management and also to defend themselves, and, the enquiry report (Exhibit M-21) is a very detailed and well reasoned report and the findings of the Enquiry Officer cannot at all be called to be perverse on any of the grounds urged on behalf of the workmen. On the evidence of the complainant's witnesses examined at the domestic enquiry there can be no doubt that the charge had been proved and that Harbhajan Singh failed to substantiate his plea of alibi. The occurrence is admitted indirectly by Trilochan Singh, one of the accused, because he took the defence that he was abused by P. Chandra who was in a drunken state, but in spite of being abused he did not assault Shri P. Chandra. It is very difficult to accept this defence of Trilochan Singh, that although he was admittedly abused by Shri Chandra, he (Trilochan Singh) did not assault him (Shri Chandra), and, therefore, it has rightly been rejected by the Enquiry Officer. The fact that none of the witnesses, except Swaran Singh, was questioned by the Enquiry Officer or that all the witnesses examined on behalf of the workmen were cross-examined by the Enquiry Officer does not show in the least that the Enquiry Officer was in a prejudiced mind, because it was his duty to elicit the truth and in so doing he had every right to put any question he desired to any witness examined on behalf of the complainant or the workmen. I am unable also to accept the contention, on behalf of the workmen, that the alleged assault by the two workmen on Shri P. Chandra, an employee of the company, was an insignificant incident, because when the assault by them had been proved, it was clearly a violation of Standing Order No. 27(5), which provides, *inter alia*, that "riotous or disorderly or indecent behaviour" shall denote misconduct on the part of the workman.

In my opinion, on the evidence adduced at the domestic enquiry, there can be no doubt that the workmen were guilty of misconduct, and, when the misconduct of the workmen concerned had been established and proved beyond reasonable doubt, their dismissal was proper and legal and justified.

14. It was strongly urged by Shri Achariar, on behalf of the workmen, that actually these workmen were prosecuted on false charges, because of the occurrence on 24th December, 1961, in which incident the truck driver and a khalasi of Hindusthan Khan Mazdoor Sangh were assaulted by the employees belonging to the Congress Mazdoor Sangh and these workmen had given evidence before the police against the violent activities of the Congress Mazdoor Sangh. Shri Harbhajan Singh, W.W.1, admitted in his cross-examination, that he had not written in his written statement what he had deposed in court before this Tribunal about the charge levelled against him as a result of his belonging to the different Union, whose members were attacked by the rival Union on 24th December, 1961. W.W.2, Trilochan Singh, also admitted, towards the end of his cross-examination, that neither he nor any of his witnesses had referred to the occurrence of 24th December, 1961 in their statements during the domestic enquiry. It is, therefore, clear that this defence is an afterthought and therefore it cannot be taken notice of. If there had been any truth in it, it was expected that this defence would have been taken at the domestic enquiry but it was not done.

15. It was sought to be made out by the workman, Harbhajan Singh, W.W.1, that he did not know Hindi and that nothing was read out to him which was written in Hindi at the time of the domestic enquiry. This statement, however, is modified by him in his own cross-examination when he admitted that he did not file any protest petition before the Enquiry Officer saying that the statements of the witnesses were being recorded in Hindi, although he said that he orally protested to the Enquiry Officer. This fact, however, was not put to the Enquiry Officer M.W.1, who was examined before the Tribunal. There is, therefore, no substance in this defence of Harbhajan Singh that he did not know Hindi and that the statements of the witnesses recorded in Hindi were not read out to him.

16. It was also tried to be made out by Trilochan Singh, the other workman, that he was illiterate and that he does not understand Hindi quite properly. But he admitted that he was deposing in court before this Tribunal in Hindi and that he was questioned in Hindi and that he understand the questions quite well. He admitted that he signed Exhibit M-1 his explanation to the Charge-sheet in English. This defence of Trilochan Singh also is false.

17. Both the workmen admitted that they participated throughout the enquiry, and, that the evidences of all the witnesses during the enquiry were recorded in their presence. W.W 1 admitted further that all the statements of witnesses examined before the Enquiry Officer, on behalf of the management, bear his signature in token of having been recorded in his presence. In my opinion, for these considerations, there was no flaw in the enquiry proceedings and the enquiry report also is a very well considered and well reasoned report and it does not suffer from any infirmity, and, therefore, it cannot be assailed on any legal ground.

18. For the reasons given above, I hold that the dismissals of Shri Harbhajan Singh, Underground Munshi, and, Trilochan Singh, Pump Khalasi, of the company, by the management of Madhuband Colliery on 18th April 1962 were legal and justified, and, therefore, these two workmen concerned are not entitled to any relief. The parties will, however, bear their own costs.

19. This is my award, which I make and submit to the Government of India under Section 15 of the Act.

Sd /- RAJ KISHORE PRASAD,
Presiding Officer,
Central Government Industrial Tribunal,
Dhanbad

Dhanbad, 26th December 1962.

[No 2 /59/62-LRII]

New Delhi, the 24th January, 1963

S.O. 285.—In pursuance of section 17 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to Kujama Pandeberra Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD.

In the matter of a reference under Section 10(1)(d) of Industrial Disputes Act, 1947, (XLV of 47).

REFERENCE No. 26 of 1961.

PARTIES:

Employers in relation to Kujama Pandeberra Colliery

AND

Their Workmen

PRESENT. SRI Raj Kishore Prasad, M A ,B.L.,—Presiding Officer

APPEARANCES:

For the Employers.—Shri D Narsingh, Advocate, Dhanbad, with SRI H. L. Dave, Manager.

For the Workmen.—Sri Babbal Lal, Advocate, Dhanbad

STATE: Bihar

INDUSTRY: Coal.

Dhanbad, dated the 27th December, 1962

AWARD

1. This reference, under Section 10(1)(d) of the Industrial Disputes Act, 1947, (XIV of 47), has been made by the Ministry of Labour and Employment, Government of India, by its Order No 1/13/61-LRII, dated 24th April, 1961, for adjudication by this Tribunal of the following industrial dispute

“Whether the action of the management of Kujama Pandeberra Colliery in stopping the 26 miners, whose names are mentioned below, from

doing their work with effect from 15th November, 1960, was justified. If not, to what relief are they entitled?"

1. Shri Sarad Bauri.
2. Shri Dharu Bauri.
3. Shri Rashik Bauri.
4. Shri Kanai Bauri.
5. Shri Khiron Bauri.
6. Shri Atul Bauri.
7. Shri Habu Bauri.
8. Shri Naru Bauri.
9. Shri Hasu Bauri.
10. Shri Badi Bauri.
11. Shri Ratu Mudi.
12. Shri Laldeb Mudi.
13. Shri Sricharan Kora.
14. Shri Rutu Majhi.
15. Shri Bhangu Majhi.
16. Shri Chand Majhi.
17. Shri Dukhu Majhi.
18. Shri Sambhu Majhi.
19. Shri Balichand Majhi.
20. Shri Rashik Majhi.
21. Shri Lakhiram Mallik.
22. Shri Sibu Mallik.
23. Shri Sudan Muchi.
24. Shri Debu Muchi.
25. Shri Baglu Bhuia.
26. Shri Balva Bhuia."

2. The workmen filed their statement of claims on 23rd August, 1961, in which their case was that the management had, in an illegal and arbitrary manner, stopped the above twenty six miners from 15th November, 1960, from their normal work; that by serving back dated charge sheets on them had arbitrarily dismissed them from their services with effect from 31st December, 1960, which letter of dismissal was received by them on 4th January, 1961; and, that, as these particular group of workmen were very much outspoken about their grievances, they had incurred the displeasure of the management, and, therefore, they had been punished and dismissed. They, therefore, prayed to set aside their dismissal and to direct their reinstatement.

3. The management also filed its rejoinder on 30th September, 1961, in which its case was that the present dispute was not an industrial dispute, but an individual dispute, and, therefore, it was beyond the jurisdiction of this Tribunal; that the workmen themselves absented from work from different dates, and not all of them absented from 15th November, 1960, and, therefore, they have been dismissed; that four of the workmen, namely Sarat Bauri (1); Khiron Bauri (5); and Naru Bauri (8); had been absents from work prior to 15th November, 1960, and Sudan alias Sudakar Muchi (23) had been absents from 17th November, 1960, and they had not been stopped by the management from doing their work as falsely alleged; that, due to the continued absence of these workmen, charge sheets were issued to them and as their explanations were found to be false an enquiry was held, which was deliberately not attended by these workmen concerned, and, as at the enquiry they were found guilty of misconduct they were dismissed from service; that as required under the Statute the Colliery had two outlets through Pit Nos. 1 and Pit No. 2 and workmen were being lowered into the mine and raised therefrom through Pit No. 1, although the working places of the mine could be reached through either of these two pits; that under the peremptory instructions from the Regional Inspector of Mines dated 9th November, 1960, man-winding, i.e. lowering and raising of the workmen, from Pit No. 1 had been stopped from 15th November, 1960, and, therefore the management

notified the workmen of the mine to go down and come up through Pit No. 2, which is at a distance of 300 feet from Pit No. 1, as both these two pits belonged to the same mine; that a majority of the workmen of the mine started going down through Pit No. 2, but these workmen concerned, except, those four who absented themselves from before or after did not report for work and did not go down the mine, on and from 15th November, 1960, as per the aforesaid notice, from Pit No. 2 and thus they continuously stopped working from that date and have been since then absenting themselves; and, that, therefore, these twenty-two workmen had no justification, in fact or in law, to disobey the order of the management based on the instructions of the Regional Inspector of Mines and to absent themselves from 15th November, 1960.

4. Sri Narsingh, Advocate, on behalf of the management, argued, (1) that the present dispute was not an industrial dispute, and, therefore, the Tribunal had no jurisdiction to entertain it, much less to decide it, and (2) on merits, that the action of the management was perfectly legal and justified in view of the order of the Regional Inspector of Mines, and, therefore, the workmen illegally absented themselves from 15th November, 1961, and refused to go down the mine from Pit No. 2 which also belonged to the same management.

5. Sri Babban Lal, Advocate, appearing on behalf of the workmen, however, combated the above contentions put forward on behalf of the management, and, contended that the present dispute was an industrial dispute and that the action of the management in stopping these workmen from work from 15th November, 1960, on the facts of the case, was illegal and unjustified.

6. In order to decide the above points raised it is necessary to know the facts. The undisputed facts may be stated, in their chronological order, as below:

(a) On 9th November, 1960, a letter, Exhibit E, from the Regional Inspector of Mines was received by the management to the effect, *inter alia*, that:

"Regulation 78.—You are hereby asked to stop the man winding in No. 1 Pit except for emergency and for statutory inspections."

(b) The Manager of the Colliery, therefore, on 15th November, 1960, issued a notice, Exhibit E-20, to all the underground workmen working in this Colliery informing them that:

"No man winding shall be done by Pit No. 1 at Kujama Pandeberra Colliery, as per Order of Regional Inspector of Mines, *vide* his letter, dated, the 9th November, 1960, except for emergency and for statutory inspection.

All the underground workmen are hereby informed that they will go to their normal working places through the second outlet at No. 2 pit at Central Kujama colliery unit."

(c) The result of this notice Exhibit E-20, was that these twenty-two workmen concerned, except the four, who were absent from before or after, stopped work from 15th November, 1960, and refused to go through Pit No. 2.

Exhibit E-18, which contains the names of the 26th workmen who are concerned in the present dispute, gives the dates from which the different workmen were absent from their duties. Out of these 26 workmen, Sarad Bauri (1) was absent from 14th November, 1960; Sri Kiron Bauri (5) was absent from 29th October 1960; Sri Naru Bauri (8) was absent from 15th October, 1960, and Sudan or Sudakar Muchi (23) was absent from 17th November, 1960, and, the remaining 22 workmen were absent from 15th November, 1960.

(d) On the continued absence of these workmen without any authorised leave from 15th November, 1960, on 28th November, 1960, a charge sheet, Exhibit E-4, was issued against the above 22 workmen asking them to explain why they had been keeping absent from 15th November, 1960, till date without any authorised leave.

On the same date, i.e., 28th November, 1960, similar charge sheets were issued separately to the other four workmen also. The charge sheet against Suda Mochi (23) is Exhibit E-2; against Sarad Bauri (1) is Exhibit E-3; against Naru Bauri (8) is Exhibit E-5, and against Kiron Bauri (5) is Exhibit E-6. These charge sheets were received by the workmen concerned on 2nd December, 1960.

(e) On 30th November 1960, before the receipt of the charge sheets on 2nd December 1960, these 26 workmen sent a letter Exhibit E-38 which is in Hindi and which has also been marked as Exhibit W-8 to the Manager saying that these workmen have been working for the last 10 years as miners to the entire satisfaction and have still, for the last two weeks, been stopped from working without any reason, and, therefore, they be permitted to resume their duties. This letter Exhibit E-38 and Exhibit W-8 are in Hindi and this very letter in English is Exhibit W-7. This petition, Exhibit E-38, mentions that it was received by the management on 6th December 1960.

In this connection, it may be mentioned here that the case of the workmen is that the management, after receipt of their petition Exhibit W-7, W-6, E-38, issued the charge sheet by ante-dating it as 28th November 1960, because these charge sheets were received by them on 2nd December 1960. The case of the management however, is that these charge sheets were sent on 28th November 1960 under a peon book, Exhibit E-16, but they were not accepted by the workmen, and, therefore, they were sent on 30th November 1960 by registered post, as will appear from the registered postal acknowledgment receipts Exhibit E-17 series, which were delivered to the workmen and received by them on 2nd December 1960.

(f) These workmen sent their explanation in Hindi Exhibit W-8 and also in English Exhibit W-9 on 3rd December 1960 to the Manager saying that the charge sheets dated 28th November 1960, Exhibits E-2 to E-6, had been received by them on 2nd December 1960, and, that the Charge against them that they had been absenting from 15th November 1960 was false, in as much as, they were everyday reporting from 15th November 1960 onwards for duty but they were not given any work, and therefore, they sent a petition on 29th November 1960, Exhibit W-6, W-7 to the Manager that they were not getting work although they have been reporting for duty everyday from 15th November 1960 onwards, and, that they should be permitted to resume work.

(g) On 7th December 1960, a notice, Exhibit E-26, was sent to the four workmen, mentioned before, informing them that a departmental enquiry into the charge sheet dated 28th November 1960 will be held on 14th December 1960 at the Manager's office at the Central Kujama Colliery, and, therefore, they should be present with their witnesses, if any. A similar notice was sent to the other 22 workmen also and the time table of enquiry against these persons is Exhibit E-25.

(h) The enquiry, accordingly was held on different dates in December 1960; witnesses were examined and the statements of such witnesses are exhibits E-27 to E-37.

(i) On 6th December 1960, a registered lawyer's notice, Exhibit E-23 from Sri K. L. Paul, Advocate, on behalf of these workmen, was sent to the Manager of the Colliery saying that without any sufficient cause they have been made to sit idle, and, therefore, the workmen were entitled to retrenchment compensation under Section 25F of the Industrial Disputes Act, 1947. To this notice, the management sent a reply, Exhibit E-24, on 16th December 1960, denying the charge that the workmen had been made to sit idle without any charge sheet and informing the lawyer of the workmen that his clients remained absent without permission or authorised leave on different dates for which charge sheets were issued against them, and, thereafter departmental enquiry was held and they were found guilty, and, therefore, the suggestion of retrenchment of his clients was without any basis and as such the question of payment of retrenchment compensation did not arise.

(j) On 28th December 1960, Sri S. N. Jha, Tisra Coalfield Area, sent a notice of general strike to the Manager of the Colliery, Exhibit E-8, in which item No. 5 was that the management had arbitrarily stopped work of more than 25 miners for the last " weeks and had issued back dated charge sheets to them to defend their action.

(k) On 29th December 1960, these workmen were informed separately by letters that at the enquiry the charge sheet against them had been established, and, therefore, the management had decided to dismiss them from service on 31st December 1960. The letter to Rashik Bauri (3) is Exhibit E-19.

(l) On 13th January 1961, several workmen except these 26 workmen, sent a letter in Hindi to the Regional Labour Commissioner, Exhibit E-21, saying they had nothing to do with the strike notice Exhibit E-28 sent by 96 workmen. The Regional Labour Commissioner on 25th February 1962 sent a letter, Exhibit E-9, to the Secretary of the Union informing him that the workmen of the colliery have informed him that the Colliery Mazdoor Sangh had not consulted them before giving the strike notice and that this matter had also been enquired into by the Labour Inspector and the workers on the spot enquiry have again stated the same fact

The Secretary of the Colliery Mazdoor Sangh was, therefore, asked to produce the membership record. The matter ultimately came before the Conciliation Officer, who submitted a Failure Report on 14th March 1961, Exhibit E-1, in which in para 5 the dismissal of these workmen is dealt with.

7. From Exhibit W-13, it appears that there was a settlement arrived at during the course of conciliation proceedings held by Regional Labour Commissioner on 21st September 1960, in which the terms of settlement were:

"The management state that there has been no change in the ownership and therefore the service conditions of the workers remain unaltered. This being the case, the position is acceptable to the union on this score now."

Exhibit W-13 further shows that the above settlement was arrived at on the letter of the Secretary of the Colliery Mazdoor Sangh dated 29th August 1960 to the effect that the ownership of Kujama Pandeberra Colliery was being transferred to the management of Central Kujama Collieries (Private) Limited and the new employer was likely to make a change in the terms and conditions of service of the workers.

8. It will further appear from Exhibits E-10 to E-15 that the ownership of Kujama Pandeberra Colliery and Pandeberra Colliery which are both adjoining Central Kujama Colliery was taken over and all the three collieries were amalgamated into one unit.

Exhibit E-10 is a letter sent on 7th September 1960 by Shri N. M. Chouhan, Partner, to the Chief Inspector of Mines saying that these three Collieries, namely, Central Kujama Colliery was taken over and all the three collieries were amalgamated with common barriers and, therefore, permission was sought to allow their First Class Manager of Central Kujama Colliery, Shri H. L. Dave, to act as Manager of all these three amalgamated Unit from 15th September 1960.

Exhibit E-11 is a letter sent by Regional Inspector of Mines to the Central Kujama Colliery saying that as Central Kujama, Kujama Pandeberra and Pandeberra have been amalgamated into one single unit, a notice of such amalgamation indicating the working of different seams in each mine and the proposal of workings in the amalgamated unit should be submitted.

Exhibit E-12 is a reply to the letter dated 7th September 1960 Exhibit E-10, from the Chief Inspector of Mines permitting Sri H. L. Dave to work as Manager of the three amalgamated units.

Exhibit E-13 is a letter dated 23rd September 1960 to the Chief Inspector of Mines from Sri N. M. Chouhan, Partner, forwarding the notice of merger of three units into one.

Exhibit E-14 and E-15 are applications by Sri H. L. Dave to the Chief Inspector of Mines for permission to act as Manager of the three collieries.

9 From the foregoing facts and the documents specified above, the following facts emerge:

- (i) The three Collieries, namely, Central Kujama, Kujama Pandeberra and Pandeberra Collieries are one unit having been amalgamated and are under one Manager Sri H. L. Dave and are owned by one and the same person;
- (ii) Man-winding into these Collieries is, therefore, both through Pits Nos. 1 and 2. It was admitted, on behalf of the workmen, that the entrance into the underground mine is both through Pit No. 1 and Pit No. 2;
- (iii) The Regional Inspector of Mines, in his letter Exhibit E, dated 9th November 1960, stopped winding through No. 1 Pit except for emergency and statutory inspections;
- (iv) The management, therefore, issued notice on 15th November 1960, Exhibit E-20, informing the workmen that, in view of the letter of the Regional Inspector of Mines, they should now go to their normal working places through the second outlet at Pit No. 2 at Central Kujama Colliery unit.
- (v) 22 of the workmen concerned disobeyed the notice Exhibit E-20 and did not go through Pit No. 2 and absented themselves from 15th November 1961; and,

- (vi) The management, therefore, issued charge sheets to these workmen for absenting themselves without leave, four from before or after and the remaining 22 from 15th November 1960, as mentioned in the Chart, Exhibit E-18, and, at the enquiry they were all found to be guilty of misconduct, and, therefore, they were dismissed.

10. On the just stated facts, it is plain that the management did not at all stop these 26 workmen concerned from doing their normal duties from 15th November 1960, as alleged by them, and, the question of the management stopping these workmen from working from 15th November 1960 did not arise, because three of these workmen mentioned before, absented themselves from before 15th November 1960 and one of them absented himself from after 15th November 1960 and the remaining 22 absented themselves from 15th November 1960 and they never reported for work, as falsely alleged, because they refused to obey the notice, Exhibit E-20 and to go down the mine through Pit No. 2.

11. When it is admitted by the workmen that entrance into the mine is both through Pit No. 1 and Pit No. 2 and when man-winding through Pit No. 1 was prohibited by Regional Inspector of Mines, the management was perfectly justified in asking all the workmen working underground, including these workmen, to go down for work through Pit No. 2. The plea that the workmen reported everyday for work on and from 15th November 1960 but that they were not given work cannot be accepted as true in view of their attitude in not obeying the notice issued by the management and asking them to go through Pit No. 2. The continued absence of 22 workmen from 15th November 1960 and of three from before 15th November 1960 and of one after 15th November 1960 without any leave was certainly misconduct on their part, and, therefore, they had rightly been charge-sheeted and found guilty. At the enquiry several witnesses were examined, such as Nautamlal, Assistant Manager (Exhibit E-27); Ganauri Singh, Overman, (Exhibit E-28) and N. C. Chakravarty, Attendance Clerk, (Exhibit E-29), on 20th December 1960, 21st December 1960, 22nd December 1960 and 26th December 1960, and their statements are on record and on consideration of their statements Exhibits E-27 to E-37 there can be no doubt that the attitude of the workmen was not justified. There is no reliable evidence to support the defence of these workmen that they always went to the colliery and reported for duty on and from 15th November 1960 but the management deliberately refused to give them work. The real cause was of their refusal to go through Pit No. 2, as ordered by the management, due to the letter of the Regional Inspector of Mines prohibiting man-winding through Pit No. 1.

12. There is also no substance in the defence that these charges were ante-dated, because admittedly these charge sheets are dated 28th November 1960, as will appear from Exhibits E-2 to E-6 and the management wanted to serve these charge sheets Exhibits E-2 to E-6 on these workers personally on the peon book, as appears from Exhibit E-16, but as they were not accepted, they were sent by post on 30th November 1960 as appears from Exhibits E-17 series, and, therefore they were received by the workmen on 2nd December 1960. It cannot, therefore, be said that because of the workmen's petition dated 30th November 1960, Exhibit W-6, W-7, these workmen were falsely charge sheeted by ante-dating the charge sheets. It may be stated that the workmen nowhere in any of their letters mentioned anything about the notice Exhibit E-20 given by the management on 15th November 1960 informing them that because of the letter of Regional Inspector of Mines prohibiting man-winding through Pit No. 1, they were now to go down the mine through Pit No. 2. This fact is deliberately omitted by the workmen from their letters just to show that it was the management which was stopping them from working from 15th November 1960 and not that they deliberately absented themselves from 15th November 1960 (or from earlier or after) and that they refused to go down the mine through Pit No. 2.

13. There is also no substance in the contention raised on behalf of the workmen that even assuming that they refused to obey the notice Exhibit E-20 and go down the mine through Pit No. 2, they were justified in doing so because Pit No. 2 is at the Central Kujama Colliery, which is owned by another management. The facts mentioned in para 8, wherein Exhibits E-10 to E-15 are dealt with prove conclusively the hollowness of their defence. All these three collieries have now been amalgamated into one Unit and are under the same management. Furthermore, when it is admitted by these workmen that man-winding is done through both the pits, Pit No. 1 and Pit No. 2, the workmen should not have refused to go down the mine through Pit No. 2 when the Regional Inspector of Mines prohibited man-winding through Pit No. 1. There was, therefore, no justification in fact or in law on the part of these workmen to disobey the notice Exhibit E-20 and to refuse to go down the mine through Pit No. 2 as directed. If, therefore, they absented

themselves without leave, they are themselves to be blamed and they cannot now blame the management for taking action against them.

14. For the reasons given above, my concluded opinion is (i) that the management did not stop these 26 workmen (miners), who are concerned in the present dispute, from doing their normal work with effect from 15th November 1960, (ii) That 22 of these workmen absented themselves from work from 15th November 1960 as they did not like to go down the mine through Pit No. 2 as ordered by the management, and three of the other four workmen absented themselves from before 15th November 1960 and one of them from after 15th November 1960 and as all these workmen absented themselves without leave and permission they were themselves to be blamed for the action of the management, (iii) that the management was justified in asking these workmen, as also others, in view of the letter of the Regional Inspector of Mines prohibiting entrance into the mine through Pit No. 1, to ask them also to go down the mine through Pit No. 2, (iv) that Pit No. 1 and Pit No. 2 belonged to the same owners and entrance through both of them was admitted by the workmen, and (v) that, therefore, the management cannot be blamed for these workmen ceasing from working from 15th November 1960. On these findings, therefore, none of these 26 workmen are entitled to any relief. In the circumstances, there will be no order for costs.

15. In view of my above decision on the merits in favour of the management, I do not think, it is necessary to decide the objection of the management that the present dispute is not an industrial dispute, and, therefore, this Tribunal has no jurisdiction to entertain it. If, however, I were to decide it, I would have overruled this objection and decided it in favour of the workmen. Exhibit E-1, the Failure Report dated 14th March 1961 of the Conciliation Officer and Exhibit W-13, the agreement dated 21st September 1960 between the union and the management, amongst other documents, do prove *prima facie* the existence of an industrial dispute between the management and the workmen. Sri Narsingh, no doubt, took his objection but he, however, did not seriously press it and he argued more vehemently on the merits of the case.

16. This is my award which I make and submit to the Government of India, under Section 15 of the Act.

Dhanbad, the 27th December, 1962.

RAJ KISHORE PRASAD,

Presiding Officer, Central Govt. Industrial Tribunal, Dhanbad.

[No. 1/13/61-LRIL.]

New Delhi, the 25th January 1963

S.O. 286.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Dhanbad, in the industrial dispute between the employers in relation to Manoharbahal Colliery and their workmen.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, DHANBAD

In the matter of a Reference under Section 10(1)(d) of Industrial Disputes Act, 1947 (XIV of 1947).

REFERENCE No. 88 OF 1961.

PARTIES:

Employers in relation to Manoharbahal Colliery

AND

Their Workmen.

PRESENT:

Sri Raj Kishore Prasad, M.A., B.L., Presiding Officer.

APPEARANCES:

For the Employers: Shri S. S. Mukherjee, Advocate, Dhanbad, with Shri S. C. Jha, Manager.

For the Workmen: Shri D. Narsingh, Advocate, Dhanbad, with Sri Keshab Banerjee, General Secretary, Colliery Mazdoor Sangh.

STATE: West Bengal.

INDUSTRY: Coal.

Dhanbad, dated the 28th December, 1962.

AWARD

1. The Ministry of Labour & Employment, Government of India, by its Order No. 2/218/62-LRII, dated the 29th November, 1961, has referred, under Section 10(1)(d) of the Industrial Disputes Act, 1947 (XIV of 1947), the following industrial dispute for adjudication by this Tribunal:—

“Whether the dismissal of Shri K. N. Mishra, Tub-Checker, by the management of Manoharbahal Colliery was justified and to what relief Shri Mishra is entitled?”

2. On behalf of the workman, Shri K. N. Mishra, the General Secretary of the Colliery Mazdoor Union, filed a written statement of Claims on 15th January 1962 alleging that as the workman concerned is a member of the Colliery Mazdoor Union, which had formed a branch at the said Manoharbahal Colliery on 27th June 1961, and the workman was elected Secretary of this branch union, the management, on getting information of the formation of the said union and of the election of Shri Mishra as its Secretary and 14 others as office-bearers on 28th June 1961, as there was no other union functioning before in this Colliery, immediately, after receiving the information, first stopped from work from 29th June, 1961 its President Shri Jagdish Bhar and within two days, thereafter, the workman concerned, Shri K. N. Mishra, Secretary of the Union, was the second victim and he was transferred forthwith by the management with effect from 1st July 1961 to a distant Chora Colliery, which belonged to another company, Messrs. Chora Colliery (Private) Limited, and which had been closed six years ago, and whereas there was no raising of coal from that colliery since its closure, there was no necessity of a Tub-Checker. It was further alleged that, after the said illegal order of transfer, the workman, Shri Mishra, was stopped from work with effect from 1st July 1961, although he reported for work everyday. It was, therefore, alleged that the transfer of Shri Mishra was illegal and *ultra vires* of the powers of the owners of Manoharbahal Colliery and that it was also unreasonable and vindictive as it was to take effect immediately despite the fact that the Chora Colliery was situated at a distance of over 20 miles. It was further alleged that the case of the management that Shri Mishra was transferred, because the post of Tub-Checker in the Manoharbahal Colliery was abolished was false inasmuch as there were still 5 Tub-Checkers, who were junior to the workman concerned in this dispute. It was also said that all of a sudden, without any charge-sheet or enquiry, the Manager of the Manoharbahal Colliery issued to the workman, Shri Mishra a letter on 22nd July 1961 dismissing him from service on the plea of disobedience of orders and absence from work for more than 10 days. It was further said that Standing Orders Nos. 27(1) and 27(6) were inapplicable to the present case. On these grounds, it was alleged that the dismissal of the workman should be set aside and he should be reinstated in his former job of Tub-Checker in Manoharbahal Colliery from the date on which he was stopped from work with full back wages.

3. The management also filed its written statement on 27th August 1962, in which it was alleged that both Manoharbahal Colliery and Chora Colliery were under the control and management of Shri P. Roy Choudhury who is a Nominated Owner and one of the Directors and the Administrative Officer of both these Collieries and that Shri M. R. Banerjee is the C.M.E. and Technical Head of both these collieries, and, therefore, both the Collieries were under the same management. The management alleged that the workman, Shri Mishra, was appointed as a Munshi at Nimcha Colliery owned by Nimcha Coal Co Ltd. and worked in that capacity till 27th March 1956 but he was thereafter transferred to Benalee Colliery as a Munshi where he worked upto 12th September 1957 and he was then transferred to Manoharbahal Colliery, owned by Rai Sahib Chandan Mull Indra Kumar (Private) Limited from 13th September 1959 as a Tub-Checker and he was working as such till his dismissal. It was said that these transfers were accepted by the workman, Shri Mishra, without any objection or protest on this part. It was further alleged that as Shri Mishra, the man concerned refused to accept the order of his transfer to Chora Colliery, he remained absent continuously thereafter from his place of work at Chora Colliery and he was dismissed on 22nd July 1961. The management said that the formation of the Mazdoor Union in this Colliery was illegal and the management on 26th July 1961, long after the transfer and dismissal of Shri Mishra, the workman concerned, therefore, the

Mishra was not an act of victimisation on the part of the management. It was further said that the present dispute was an individual dispute, and, as such, it was outside the purview of the Industrial Disputes Act.

4. On behalf of the management, Shri S. S. Mukherjee, Advocate, examined E.W. 1, Baliram Chatterjee and E.W. 2 Jogendra Singh, Bonus Clerk of Manoharbahal Colliery and also filed documents Exhibits E to E-9 to support its case.

5. On behalf of the workman, Shri D. Narsingh, Advocate, examined the workman concerned Shri K. N. Mishra, W.W. 1, and filed documents Exhibits W to W-5.

6. Shri Mukherjee, on behalf of the management, contended:

- (1) that the transfer was legal according to the service conditions and was supported by instances deposed to by Shri Baliram Chatterjee, E.W. 1;
- (2) in Exhibit W, which was a reply of the workman to the letter of the Manager, dated 2nd July 1961, Exhibit E-1, no grievance about reasonableness or otherwise of the order of transfer was made by the workman;
- (3) that there can be service conditions contrary to standing orders, as held by the Allahabad High Court in A.I.R. 1959, 639;
- (4) that there was no proof that the Union was formed in June 1961 and the workman concerned, W.W. 1, admitted that he could not produce any witness to prove this; and
- (5) that the present dispute was an individual dispute and not an industrial dispute and therefore this Tribunal has no jurisdiction to entertain it.

7. In reply, Shri Narsingh, on behalf of the workman, contended:

- (1) that the transfer was illegal inasmuch as the two Collieries, namely, Manoharbahal and Chora Collieries belonged to two co-owners but were not under the same management, and, therefore, Standing Order No. 26 did not apply;
- (2) that even assuming that the management had a right to transfer the workman from Manoharbahal Colliery to Chora Colliery, the transfer was a colourable exercise of authority, inasmuch as, no reason for the transfer was given in the letter of transfer, dated 1st July 1961, Exhibit E; Chora Colliery was closed on 1st July 1961 and there was no evidence that it was working; and, further that the notice of transfer was unreasonable because it was impossible for a workman to go on 1st July 1961 to 14 miles to Chora Colliery on the same day to join duty;
- (3) that principles of natural justice had been violated and Standing Order No. 28 had been contravened inasmuch as without any charge sheet and without any enquiry the workman concerned was dismissed, and there could be no punishment without charge sheet and enquiry as required by Standing Order No. 28, and, therefore, the dismissal was illegal and without jurisdiction;
- (4) that if there was absence on the part of the workman concerned, he was, according to the management, absent from the Chora Colliery, and, therefore, the Manager of that Colliery could, alone take steps, and, as such, on this ground also the dismissal was illegal; and,
- (5) that it was a clear case of Victimisation due to trade union activities, because the new Union was formed on 27th June 1961 and the workman was elected as Secretary of the Branch Union and information of the formation of this Union was sent to the management on 28th June 1961, and not on 26th July 1961, as falsely alleged by the management.

In order to decide the validity of the arguments put forward on behalf of the workman, it is necessary first to know the admitted facts of the case, which are stated as below:

The workman, Shri Mishra, was working as Tub-Checker in Manoharbahal Colliery. On 1st July 1961, the workman concerned received a letter from the Manager, Exhibit E, informing him that

his services had been transferred to Chora Colliery on and from 1st July 1961, and, therefore, he should report for duty to the Manager of the Chora Colliery. On 2nd July 1961, the management sent a letter, Exhibit E-1, to Shri Mishra reminding him to report for duty to Manager, Chora Colliery, immediately and to vacate the quarter he was occupying. In reply to this letter, dated 2nd July 1961, Exhibit E-1, the workman Shri Mishra, sent a letter on 3rd July 1961, Exhibit W, informing the Manager that the workers had raised an industrial dispute regarding his *malafide* order of transfer and unless it was finally disposed of by authorities he was entitled to remain in his quarters, and, therefore, any attempt to vacate him forcibly will be illegal.

- (b) On 18th July 1961, Shri Prohlad Roy Choudhury, Director and Nominated Owner of Chora Colliery, sent a letter to the Manager, Manoharbahal Colliery, Exhibit E-4, informing him that Shri Mishra had not carried out his instructions and has not joined his duty at Chora Colliery, and, therefore, he may be dismissed;
- (c) The Manager of the Manoharbahal Colliery, thereafter, as Shri Mishra did not go on transfer to Chora Colliery, issued a letter, Exhibit E-2, to Shri Mishra dismissing him from service with immediate effect. The material portion of the said letter is as below:

"By order dated 1st July 1961 you were transferred to Chora Colliery under the same management on the same terms and conditions of service and you were asked to report for duty there for immediate effect. You were reminded of the said order on 2nd July 1961. You did not comply with the said order of transfer and absented yourself from duty since 1st July 1961. As you are aware this transfer was occasioned due to the category to which you belonged in the process of being abolished. You not only have committed wilful disobedience of the lawful order of the management but have been continuously absent from duty more than ten days and have thereby committed misconduct under Section 27(1) and 27(16) of the Standing Orders applicable to the Coal Mining Industry on the admitted facts of the case."

- (d) On 21st September 1961, the General Secretary of the Colliery Mazdoor Union raised an industrial dispute over the discharge of 114 workmen, including the dismissal of Shri Mishra, of Manoharbahal Colliery before the Conciliation Officer (Central), and, the memorandum of settlement, arrived at between the management of the Manoharbahal Colliery and the Union on 12th October 1961, Exhibit E-3, shows that Item No. 8 was regarding the dismissal of Shri K. N. Mishra, in respect of whom no settlement could be reached and, therefore, the Conciliation Officer sent a failure report in respect of his case on 26th October 1961; and,

- (e) The above failure report of the Conciliation Officer mentions that:

"Shri Misra was originally appointed in Nimcha Colliery sometimes in 1947 as Tub-Checker. Nimcha colliery belonged to Messrs. Nimcha Coal Co. (P) Ltd. Sree Misra was transferred to Benalee Colliery sometimes in 1956. Benalee colliery belonged to M/s. Nimcha Coal Co. (P) Ltd. Sree Misra was then transferred to Manoharbahal colliery sometimes in 1957. Manoharbahal colliery belongs to M/s. Rai Saheb Chandanmull Indra Kumar Private Limited. Chora Colliery belongs to Messrs Chora Colliery (P) Ltd. All the above said collieries are under the Managing Agency of Messrs H. V. Low Co. Ltd."

The above facts are admitted by the management and are also deposed to by the management's witness, E.W. 1, Shri Bhola Ram Chatterjee.

9. It was admitted by Shri Mukherjee, for the management, that it has no certified standing order of its own but it follows the model standing orders in respect of coal industry, which is Exhibit W-4.

10. Standing Order No. 26 (Exhibit W-4) deals with the powers of the management to transfer a workman and it is in these terms:

"26. All workmen are liable to be transferred from one department to another or from one station to another or from one colliery to another

under the same management provided such transfer does not cause any prejudice to their wages and other conditions of service and provided that reasonable notice is given of such transfer."

It is obvious, therefore, from standing Order No. 26 that workmen can be transferred from one colliery to another if both are *under the same management* and provided such transfer does not cause any prejudice to their wages and other conditions of service and provided further that reasonable notice is given of such transfer. On this standing order No. 26, one thing is certainly clear that the transfer order, Exhibit E, by no stretch of imagination can be considered to be reasonable, because Chora Colliery is situated at a distance of 14 miles, on the evidence of the workman W.W. 1, from Manoharbahal Colliery, and, therefore, it was simply impossible for the workman Shri Mishra a Tub-Checker, on receipt of order of transfer on 1st July 1961 to report himself to duty on the same day at such a distant place. I have, therefore, no hesitation in holding that reasonable notice of transfer, even if transfer be assumed to be permissible, was not given, and, therefore, in that respect Standing Order No. 26 was contravened.

11. But more serious objection, however, is that this Manoharbahal Colliery and Chora Colliery cannot at all be considered to be *under the same management* as required by Standing Order No. 26. The owner of Manoharbahal Colliery was Rai Sahib Chandan Mull Inder Singh (Private) Limited, whereas, the admitted owner of Chora Colliery was Messrs Chora Colliery (Private) Limited. There is no doubt, therefore, that because both the Collieries were owned by two different entities, they cannot be considered to be under the same management within the meaning of Standing Order No. 26. The mere fact that the managing agent of both the Collieries was one, namely, Messrs. H. V. Low & Co. Ltd, or the fact that both Manoharbahal Colliery and Chora Colliery were under the control and management of Shri P. Roy Choudhuri, who is a Nominated Owner and one of the Directors and the Administrative Officer of both these Collieries and Shri M. R. Banerjee is the Chief Mining Engineer and Technical Head of both the Collieries is not a sufficient ground for holding that both the Collieries are not under the same management.

In these circumstances, the transfer of Shri Mishra, by Exhibit E-2, was illegal, being in contravention of Standing Order No. 26.

12. It may be mentioned that neither the Manager of either Colliery nor any of the persons, who are alleged to have been transferred and about whose transfers, E.W. 1 has deposed to have been examined. There is, therefore, no reliable evidence to prove the assertion of the management that transfers have been made from one colliery to another under different managements without protest or objection by the workman concerned. Even assuming that transfers were made, and those transfers were accepted by transferees, as deposed to by E.W-1, that could not be a ground to show that in view of the standing Order No. 26 the management had a right to transfer Shri Mishra from Manoharbahal Colliery to Chora Colliery against his wishes even when the two collieries were not under the same management, particularly when Shri Mishra did not accept his transfer.

13. It may be noted that in the order of transfer dated 1st July 1961, Exhibit E, no reason is given as to why this transfer is being made. But to supply this inherent lacuna a letter dated 26th June 1961, Exhibit E-9—E-5, alleged to have been sent by Shri Prohlad Roy Choudhury of the Chora Colliery to the Manager, Manoharbahal Colliery, was alleged to have been sent, saying that an experienced man is required to look after the general work of the Chora Colliery and as the Tub-Checker's post is going to be abolished, one of the tub-checkers may be sent immediately there with intimation to this office. This letter has been challenged by the workman as having been ante-dated in order to supply the lacuna so that the order of transfer may be legalised. I have no hesitation in accepting this contention of the workman, because in the original letter of transfer, Exhibit E, which was sent on 1st July 1961, the reason for it is not at all mentioned therein, nor, in the second letter on 2nd July 1961 Exhibit E-1 any such reason is given at all. If Exhibits E-5—E-9 dated 26th June 1961 was there in existence, why it was not mentioned in Exhibits E and E-1 and why the reason given in Exhibits E-5—E-9 was not mentioned therein. This omission shows that Exhibit E-5—E-9 was not in existence but it was subsequently brought into existence to supply the reason. It is only in the letter of dismissal dated 22nd July 1961, Exhibit E-2, that it is alleged that the category to which Shri Mishra belonged was in the process of being abolished. It appears therefore, that as no reason for the transfer was given in the letter of transfer Exhibit E or Exhibit E-1 this letter Exhibit E-5—E-9 was not produced to supply the reason in order to legalise the order of transfer.

14. It was contended, on behalf of the workman, that the case of the management that the post of Tub-Checker had been abolished in absurd and impossible to be accepted. This contention seems to be correct. It appears that the management in order to justify its stand of transfer has made out a case of abolition of the category of tub-checkers, as there is no reliable evidence to support it.

15. As regards the contention of Shri S. S. Mukherjee that there can be conditions of service contrary to Standing Orders, as held in A.I.R. 1959 ALL 639, in my opinion, it cannot be accepted as valid in the face of the Division Bench decision of the Patna High Court in Bihar Journals Limited vs. Ali Hasan, 1954—II L.L.J. 536.

16. For the reasons given above, I hold that the transfer was illegal, and, therefore, its disobedience did not amount to misconduct, and as such, standing orders 27(1) and 27(6) did not apply to the present case and that the transfer was really a colourable exercise of authority, and, as such, it could not be given effect to.

17. Most serious objection, however, which completely vitiates the dismissal of the workman, is the violation of Standing Order No. 28. Standing Order No. 28 is in these terms:

"28. No orders of punishment by way of suspension dismissal or fine shall be made unless the employee concerned is informed in writing of the alleged misconduct and is given an opportunity to explain the circumstances alleged against him. * * *"

From the above, it is plain that no workman can be dismissed unless a charge sheet is served on him and he is given an opportunity to explain the circumstances against him and a departmental enquiry is held. In the present case, admittedly neither any charge sheet was served on Shri Mishra nor an enquiry was held. Straightway the management on 22nd July 1961 (Exhibit E-2) dismissed the workman. In my opinion, this action of the management was entirely illegal and *Ultra vires* and in complete violation of standing order No. 28, and, therefore, dismissal of Shri Mishra must be held to be illegal, and, without jurisdiction and on this ground alone it must be set aside.

18. There is great force in the contention put forward on behalf of the workman that really the transfer of Shri Mishra on 1st July 1961 was due to the fact that a Union was formed on 27th June 1961, as alleged by the workman, and, its notice was sent to the management on 28th June 1961, and not on 26th July 1961 as falsely alleged by the management. After receipt of the information on 28th June 1961, the President of the Union was the first victim, and, later the Secretary of the Union, namely, Shri Mishra was the second victim and he was transferred from Manoharbahal Colliery to Chora Colliery which was closed long before. In my opinion, therefore, it is a clear case of victimisation, because of the trade union activities of the workman, Shri Mishra. He was elected as Secretary of the Union and therefore he was punished and transferred to Chora Colliery in which there was no coal raising and as such no Tub-Checker was needed.

19. As regards the objection, on behalf of the management, that it was an individual dispute and not an industrial dispute, I do not think there is any substance in it. Exhibit E-3 shows that on 21st September 1961 an industrial dispute was raised by the General Secretary of the Colliery Mazdoor Union regarding the discharge of 114 workmen of manoharbahal Colliery including the dismissal of Shri Mishra and the dispute was taken up for conciliation and later a settlement was arrived at before the Conciliation Officer and item No. 8 therein shows that in respect of the dismissal of Shri Mishra no settlement could be reached. The Conciliation Officer, thereafter, submitted his failure report on 26th October 1961 and, thereafter, the present reference was made on 29th November 1961. The existence of industrial dispute is amply proved. Exhibit W-3, the reply sent by Shri Mishra on 3rd July 1961 to the letter dated 2nd July 1961 Exhibit E-1 of the management, also proves the existence of an industrial dispute.

Exhibit W-5 is the register of members of the Manoharbahal Colliery, who are members of the Union and Exhibits W-6 to W-8 are the counter foil receipt books of the Colliery Mazdoor Union showing the realisation of membership subscription from the members on 27th June 1961. There is no reason to disbelieve Exhibits W-5 to W-8, as unreliable. All these counterfoils, in my opinion, support the contention of the workmen that the Union was formed on 27th June 1961. The case of the workman, therefore, that the Union was formed on 27th June 1961 and its intimation was given to the management on 28th June 1961 appears to be

true. I, therefore, hold that the present dispute is an industrial dispute and therefore this Tribunal has jurisdiction to entertain and decide it.

20. For the reasons given above, my concluded opinion is that the dismissal of Shri K. N. Mishra is illegal and unjustified, and, therefore, I set it aside and direct that the workman, Shri K. N. Mishra, Tub-Checker, of Manoharbahal Colliery be reinstated from 1st July 1961 with full back wages and other allowances admissible to him, and, the reference is answered accordingly in favour of the workman concerned.

21. There will be no order as to costs.

22. This award must be implemented within one month from the date when the award becomes enforceable under Section 17A of the Act.

23. This is my award which I make and submit under Section 15 of the Act to the Government of India, Ministry of Labour and Employment.

Dhanbad, the 28th December, 1962.

(Sd.) RAJ KISHORE PRASAD,
Presiding Officer,

Central Government Industrial Tribunal, Dhanbad.

[No. 2/218/61-LRII.]

ORDERS

New Delhi, the 23rd January, 1963.

S.O. 287.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Bhowra Coke Company, 3-B Garstin Place, Calcutta-1 and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the suspension of Shri R. N. Mukherjee with effect from the 25th April, 1962, and his subsequent dismissal with effect from the 18th June, 1962, by the management of Messrs Bhowra Coke Company, 3-B, Garstin Place, Calcutta-1 was justified? if not, to what relief is he entitled?

[No. 6/2/63-LRII.]

New Delhi, the 2nd February, 1963

S.O. 288.—Whereas, the Central Government is of opinion that an industrial dispute exists between the employers in relation to the Kendwadih Colliery, P.O. Bhaga, and their workmen in respect of the matters specified in the Schedule hereto annexed;

And, whereas, the Central Government considers it desirable to refer the said dispute for adjudication;

Now, therefore, in exercise of the Powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, (14 of 1947), the Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Dhanbad, constituted under section 7A of the said Act.

SCHEDULE

Whether the dismissal of Shri Ramjan Mia, Night Guard by the management of Kendwadih Colliery was justified. If not, to what relief is he entitled?

[No. 2/4/63-LRII.]

A. L. HANDA, Under Secy.

New Delhi, the 22nd January 1963

S.O. 289.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Labour Court, Ahmedabad, in the matter of applications under Section 33A of the said Act from certain employees of the Punjab National Bank Ltd., Bombay.

IN THE LABOUR COURT (CENTRAL), AHMEDABAD

BEFORE SHRI D. M. VIN, M.A., LL.B.

COMPLAINT No. 25 OF 1962.

IN

REFERENCE No. 1 OF 1960.

Shri Jiand Lahrumal Rajwani, C/o The Punjab National Bank Employees' Union, Khandelwal Bhavan, Nalsorji Road, Bombay-1—*Complainant*.

Versus

The Punjab National Bank Ltd., Karimjee House, Sir Phirozshah Mehta Road, Fort, Bombay-1—*Opponent*.

COMPLAINT No. 26 OF 1962

IN

REFERENCE No. 1 OF 1960.

Shri Edwin Fausto Fernandes, C/o The Punjab National Bank Employees' Union, Khandelwal Bhavan, Naorji Road, Bombay-1—*Complainant*.

Versus

The Punjab National Bank Ltd., Karimjee House, Sir Phirozshah Mehta Road, Fort, Bombay-1—*Opponent*.

COMPLAINT No. 27 OF 1962

IN

REFERENCE No. 1 OF 1960.

Shri Shreenivas Laxman Bhat, C/o The Punjab National Bank Employees' Union, Khandelwal Bhavan, 166, Dr. Dadabhai Naorji Road, Bombay-1—*Complainant*.

Versus

The Punjab National Bank Ltd., Karimjee House, Sir Phirozshah Mehta Road, Fort, Bombay-1—*Opponent*.

COMPLAINT No. 28 OF 1962

IN

REFERENCE No. 1 OF 1960.

Shri Manoharlal Malhotra, C/o The Punjab National Bank Employees' Union, Khandelwal Bhavan, 166, Dr. Dadabhai Naorji Road, Bombay-1—*Complainant*.

Versus

The Punjab National Bank Ltd., Karimjee House, Sir Phirozshah Mehta Road, Fort, Bombay-1—*Opponent*.

In the matter of complaints under Section 33A of the Industrial Disputes Act, 1947.

APPEARANCES:

Shri K. K. Mundul—for the complainants; and

Shri Chakrapany Raghwachary—for the respondents.

AWARD

These four complaints were filed under Section 33A of the Industrial Disputes Act, 1947, before the National Industrial Tribunal (Bank Disputes). They were transferred to this Court under Section 33B of the said Act.

2. Shri J. R. Rajwani, complainant in Complaint No. 25 of 1962, Shri E. F. Fernandes, complainant in Complaint No. 26 of 1962 and Shri S. L. Bhat, complainant in Complaint No. 27 of 1962 joined the opponent-Bank as Clerks-cum-Typists-cum-Godown Keepers from 17th May 1956, 14th May 1956 and 6th February 1958 respectively. Shri M. Malhotra, the complainant in Complaint No. 28 of 1962 joined the opponent-Bank as Godown-Keeper from 11th April 1947. The case of all the complainants was that they have been working as employees of the opponent-Bank since the dates of their joining it and their names have been maintained at all material times on the muster roll of its Branch at Karimjee House, Bombay. They worked intermittently in the office of the Bank and on the godowns. They alleged that the terms and conditions of service as set out in the Sastry Award were applicable to them and as far as payment of overtime wages for the overtime work done by them was concerned they were governed by para 304(6) of the said Award. They further alleged that in February, 1960, the opponent-Bank had agreed to pay, as would appear from the letter of the Conciliation Officer, and actually paid, overtime allowance to them and to the other godown-keepers as per the said para of the Sastry Award. The complainants, then alleged that they did overtime work when they worked as godown-keepers as specified in the statements annexed with their respective complaints; but the opponent-Bank now contended that they are governed by paras 304(8) and (9), and not by para 304(6), of the Sastry Award and hence the overtime work done by them should be calculated according to the provisions of the Bombay Shops and Commercial Establishments Act and the Indian Factories Act, 1948. They contended that the refusal of the opponent-Bank to pay overtime wages to them as per the terms and directions in para 304(6) of the Sastry Award would amount to an alteration of their status as well as of the conditions of service. They contended further that this alteration was affected without obtaining any permission or approval when the proceedings were pending before the National Industrial Tribunal (Bank Disputes) and so the opponent-Bank had thereby committed a breach of the provisions of Section 33 of the Industrial Disputes Act. Hence, they filed the present complaints, praying for appropriate reliefs.

3. The case of the opponent-Bank was that there was no alteration in the conditions of service applicable to the complainants. The Bank alleged that during the period, in which they claimed to have done overtime work and for which they claimed overtime wages, they were solely engaged in the godown duties as godown-keepers and hence as per the terms of the Sastry Award they were not entitled to overtime wages as claimed by them. The opponent-Bank contended that when they were working solely for godown-keeping work as godown-keepers they would be governed by paras. 304(8) and (9) and not by para. 304(6) as claimed by them. Hence, the conditions of service as laid down under the Sastry Award were not altered in any manner and it had not committed any contravention of any of the provisions of Section 33 of the Industrial Disputes Act, 1947. It, therefore, prayed that these complaints should be dismissed.

4. As the relevant facts in all these complaints were very similar and as the points for determination were the same, the complaints were consolidated and heard together and a common award is made.

5. It is now well-settled that Section 33A would come into play only if there has been a contravention of the provisions of Section 33. Breach of the provisions of Section 33 is so to say a condition precedent for exercise of the jurisdiction under Section 33A. The complainants' case was that the opponent-Bank altered conditions of their service not only to their prejudice but also in a manner which was not in accordance with the standing orders applicable to them. The Sastry Award provides in Chapter XXXI that the directions on a number of matters which would appropriately be covered under standing orders were given when those respective matters were dealt with therein and that those directions would so to say be the standing orders. The matters specifically mentioned in para 560 as falling under standing orders include the matters regarding hours of work and overtime. Clearly, therefore, the directions given by the Sastry Award with regard to the hours of work, calculation of overtime and wages for the same would amount to standing orders. Section 33(1) provides *inter alia*

that during the pendency of any dispute before the authorities specifically mentioned therein no employer shall effect in regard to any matter connected with the dispute any alteration in the conditions of service to the prejudice of the concerned workman without the express written permission of the authority before whom such proceedings are pending. Section 33(2) permits an employer to effect an alteration in regard to any matter not connected with the dispute during the pendency of the dispute before the authorities specifically mentioned therein but the alteration must be made in accordance with the standing orders applicable to the workmen concerned. No doubt, Section 33(2) does not specifically lay down that an alteration which is not in accordance with the standing orders should not be made; but the provision as it is, would necessarily imply that an alteration which is not in accordance with the standing orders is prohibited. It was observed by the Privy Council in *Nazir Ahmed v/s Emperor*, reported in 38 Bombay Law Reporter at p. 987, that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. In the present cases, the complainants urged that the refusal of the opponent-Bank to pay as before overtime wages to them as per the terms and directions of para 304(6) of the Sastry Award would amount to a change in their status to their prejudice and hence to an alteration in the conditions of their service to their prejudice and the change was not effected in accordance with the provisions of the Sastry Award, i.e. in accordance with the standing orders applicable to them. So, according to the complainants, irrespective of the fact whether the alteration was in regard to any matter connected with the dispute pending before the National Industrial Tribunal (Bank Disputes), which is one of the authorities specified under Section 33(1) and (2), or not, the provisions of the said section were contravened as no permission or approval was obtained from the said Tribunal. Admittedly, no permission or approval was obtained by the opponent-Bank. So if the contentions urged on behalf of the complainants are accepted, then it must be held that the contravention of the provisions of Section 33 is established.

6. There was no dispute, whatever, between the parties regarding the relevant facts. Complainant Shri Malhotra joined as godown-keeper in 1947 and the other two complainants joined as Clerks-cum-Typists-cum-Godown-keepers in 1956 and the fourth complainant joined as Clerk-cum-Godown-keeper in 1958. Their names remained on the muster rolls of the Karimjee House, Bombay, branch of the opponent-Bank. They worked for some times in offices and for some other times on godowns as godown-keepers and during the periods to which their claims for overtime wages related, they were exclusively working in the godowns as godown-keepers even though their names remained on the opponent-Bank's muster rolls. The only dispute between the parties was whether they were governed by para 304(6), as claimed by the complainants, or by paras 304(8) and (9) as urged by the opponent-Bank. In para 304 of the Sastry Award, directions regarding payment of overtime wages are given. Sub-Paras (6), (8) and (9) of the said para are as follows:

"(6) For work done during public holidays, declared as such for half yearly or yearly closing of bank accounts, overtime payment, if any, shall be only for hours of actual work exceeding $6\frac{1}{2}$ hours if it is a week day or 4 hours if it is Saturday. For other holidays during which overtime work is asked to be done, payment shall be made for the whole period of such work.

(8) Part-time employees, as well as watch and ward staff, bank employees engaged in domestic service, gardeners, sweepers, godown-keepers engaged solely for that work are excluded from the scope of these directions.

(9) The provisions of the local Shops and Establishments Acts in force in various States which are or may be made applicable to banks subject to such exemptions as have been provided for therein shall, of course, govern the parties to this reference. If the above directions as given by us come into conflict with any such provisions or are repugnant to the same, then to the extent of such repugnancy or inconsistency with statutory provisions and to that extent only these directions must give place to the statutory provisions. Wherever it is open to employers to agree to give the workmen any benefit over and above what the statutory provisions compel them to do, these directions by us can legally be given and are within the powers of

industrial tribunals. During the discussions before us though a vague reference was made to the provisions of Shops and Establishments Acts in general, no such particular conflict or inconsistency was pointed out and argued. The range of discussions before us was such that both parties knew fairly well what the award on this point was more or less likely to be. We indicated sufficiently though not very precisely what the award was likely to be. Even then none of the parties could see any possible repugnancy or conflict with statutory provisions."

It appears from the sub-para 8 that "godown-keepers engaged solely for that work" and some other categories of workmen are excluded from the scope of the directions and so they would not be entitled to the overtime wages at the rates prescribed in sub-para 6. It was urged on behalf of the opponent-Bank that as complainants exclusively did godown-keeping work as godown-keepers during the period under consideration they would not be entitled to claim overtime wages at the rates prescribed in sub-para 6.

7. In order to to correctly interpret the sub-paras (6), (8) and (9) of para 304, it would be necessary to refer to certain other provisions concerning godown-keepers in the Sastry Award. Para 499 deals with their recruitment, classifications, etc. Godown-Keepers are classified in the said para into two categories viz. (1) those in charge of godowns maintained by banks generally in large cities for storing goods belonging to several parties to whom advances are made and (2) those who are required to look after one or more godowns belonging generally to one party to whom advances are made ordinarily for short periods against goods stored in the borrower's godowns, such as in the case of godowns of sugar mills, ginning factories, grain merchants, etc. It was then laid down in the said para that as far as the second category of godown-keepers were concerned as their salaries and allowances were borne by the parties, who are owners of the goods in the godowns, no directions for their being made permanent were given. As far as the first category is concerned some directions were given. Then certain appeals were filed against the Sastry Award before the Labour Appellate Tribunal of India, which made an award, which would be hereinafter referred to as the Appellate Award. Chapter XI of the said Appellate Award deals with working hours and overtime. Para 194 of the said Chapter deals with godown-keepers. The said para is as follows:

- "194. As regards godown-keepers it has been pointed out that Mr. Justice Bind Basni Prasad held them to be clerks. He did so on a matter of classification, as between officers and clerks. He was not concerned with office hours in this respect. The practice relating to godown-keepers varies. In some cases the godown-keeper also works as an ordinary clerk and is expected to conform to the usual office hours. Godown-keepers of this kind are governed by the directions relating to hours of work and overtime. The Sastry Tribunal has made this clear by confining the exclusion to godown-keepers solely engaged for that work. Besides this godown-keepers are of two types. There is the man who is on duty at a godown in the premises of a constituent of the bank. He lives in the premises and takes in goods or issues them out of the godown as required. Then there is the godown-keeper in a small town where banks issue loans on the security of goods. In such places there will be two or more godowns in the charge of a godown-keeper who is expected to go to the bank in the morning, to take the keys and to receive orders as to the goods which are to be expected or to be released during the day. Having received his orders he goes away and attends again in the evening to hand over the keys. It may happen that there are no transactions in a particular day and the godown-keeper returns home immediately after his morning attendance. In both these cases it is possible for the godown-keeper to ascertain beforehand what work is to be done and to arrange his day accordingly. When the work of these employees is of this nature, the Sastry Tribunal was right in excluding them from the operation of this part of the Award. Where these employees are required to remain in attendance at the bank during the office hours the directions regarding office hours and overtime apply to them as to other employees of the bank."

These provisions very clearly show that the godown-keepers solely engaged for godown-keeping work are dealt with in a manner different from the one in which ordinary clerks of the banks were dealt with. So to say the status of the godown-keepers was considered to be different from that of the clerks.

8. Now, it was urged on behalf of the opponent-Bank that when the particular persons are working as godown-keepers and are exclusively doing godown-keeping work, they would be governed by paras 304(8) and (9) and not by para 304(6). According to it, the words "godown-keepers solely engaged for this work" would mean the persons who on a particular day or days would be exclusively doing the godown-keeping work as godown-keepers. As against this interpretation, it was urged that the words under consideration should be read as distinguished from, and not equivalent to, the words "godown-keepers solely engaged in this work". It was urged that as far as godown-keepers were concerned the words used at all relevant places were "solely engaged for this work" and never "solely engaged in this work". It was also urged that the meaning of the words "solely engaged for this work" would be quite different from the meaning of the words "solely engaged in this work" and that there is no reason or justification for treating the words having different meanings to mean the same thing. According to this argument, the words as used would show that the recruitment of the persons, who would be governed by para 304(8), must be as godown-keepers and for the work of only godown-keeping and not that on a particular day or days the work done must be only of godown-keeping. Though this argument has considerable force, I do not think that it can be the decisive one because in the very para 304(8), while dealing with domestic servants for excluding them from the scope of para 304(6), the Sastry Tribunal has used the words "bank employees engaged in domestic service". However, it appears that the interpretation urged on behalf of the complainants is sustainable on other grounds also. Generally one of the main aims and objects of a reference of an industrial dispute for adjudication or arbitration is that the dispute is settled once for all and all possibilities of uncertainties or of future disputes are excluded. If the interpretation of the words "godown-keepers solely engaged for that work" as urged on behalf of the opponent-Bank is accepted, such an aim or object would be frustrated. According to the interpretation the persons would be covered within the scope of para 304(8) on the days on which they work only as godown-keepers and at that time they would be governed by the Bombay Shops and Commercial Establishments Act and the Indian Factories Act and on the other days when they do not do only the godown-keeping work they would be governed by para 304(6) of the Sastry Award. This would naturally result in uncertainties for them and there would be many more possibilities of industrial strife. That could not have been the intention of the Award. Moreover, if the contention urged on behalf of the opponent-Bank is stretched to its logical end, it would mean that when even for a part of a day, the persons are doing only godown-keeping work as godown-keepers, they would be excluded from the scope of para 304(6). This would result in very frequent change of the status of the person concerned. The Tribunal could not have meant to create a position under which there would be very frequent changes in the status of the persons concerned. So the interpretation urged on behalf of the opponent-Bank is in my view not acceptable. Again, if the past conduct of the opponent-Bank, itself, is considered it would appear that these very complainants, together with other persons, were paid overtime wages for doing overtime work as godown-keepers at the rates prescribed in para 304(6). They were so paid after a dispute was raised and the Conciliation Officer (Central)—II, Bombay, had intervened. (vide Ex. C/4). All the points must have been thrashed out then. No reason is even alleged to show as to why the opponent-Bank has now changed its view. Considering, therefore, the arguments urged on behalf of the parties and the passages of the Sastry Award and the Appellate Award, it seems that the paras 304(8) and (9), on which the opponent-Bank has relied, refer only to those godown-keepers who are recruited only for godown-keeping work and who during their service with the Bank or till the change of their status from that of the godown-keepers who are recruited only for godown-keeping work and who during their do not in my view refer to the persons who sometimes do only godown-keeping work as godown-keepers and some other times do clerical or other work.

9 Complainants in Complaint Nos. 25, 26 and 27 were engaged as Clerks-cum-Typists-cum-Godown Keepers and they worked for some time as godown keepers and for some other time in other categories. So, according to the above interpretation they would not be covered within the scope of paras 304(8) and (9). They would be covered within the scope of para 304(6) even on the days on which they did only godown-keeping work as godown-keepers. So they would be entitled to be paid overtime wages at the rates prescribed in para 304(6). As far as Shri Malhotra, the complainant in Complaint No. 28 of 1962 is concerned it was urged that his appointment was only as a godown-keeper and at any rate he would be covered within the scope of paras 304(8) and (9). But his appointment was made long before the Sastry Award came into existence and the designations given at that time could not have been meant to convey the same idea as the designations in the Award. Moreover, even for Shri Malhotra, it

would appear that he intermittently worked for considerably long periods in other categories also. His case was very similar to the case of other complainants. So he would also in my opinion not be covered within the scope of paras 304(8) and (9). He would be entitled to overtime wages at the same rates at which the other complainants would be entitled to.

10. Admittedly, the opponent-Bank has refused to pay overtime wages to the complainants at the rate prescribed in the para 304(6) even though in the past it paid at these rates. This refusal would in effect amount to a change in status to their prejudice and consequently to an alteration in the conditions of service to their prejudice. Moreover by this change or alteration the provisions of the Sastry Award and consequently the standing orders applicable to them, are contravened. No permission or approval under Section 33 of the Industrial Disputes Act was obtained. Hence in my opinion, the provisions of Section 33 were contravened. As far the reliefs to be granted to the complainants are concerned, they should be granted overtime wages at the rates prescribed in para 304(6). At the time of hearing, the complainants accepted the figures of overtime wages given in the written statements of the opponent-Bank to be correct. The opponent-Bank should, therefore, be directed to pay them the said amounts.

11. In the result, it is directed that the opponent-Bank should pay to the complainants overtime wages as shown below within two months from the date from which this Award comes into operation.

Comp. No.	Name	Amount
25/62	Shri J. L. Rajwani	Rs. 510/40 nP.
26/62	Shri E. F. Fernandes	Rs. 1,186/93 nP.
27/62	Shri S. L. Bhat	Rs. 51/61 nP.
28/62	Shri M. Malhotra	Rs. 1,441/46 nP.

There would be no orders as to costs. It is directed that this Award be submitted to Government.

Ahmedabad,
The 9th January, 1963.

(Sd.) D. M. Vin,
Presiding Officer,
Labour Court (Central), Ahmedabad.

[No. 56(23)/62-LRIV.]

G. JAGANNATHAN, Under Secy.

New Delhi, the 22nd January 1963

S.O. 290.—In exercise of the powers conferred by clause (a) of section 19 of the Employees' Provident Funds Act, 1952 (19 of 1952), and in supersession of the notification of the Government of India in the Ministry of Labour and Employment No. S.O. 113, dated the 5th January, 1962, the Central Government hereby directs that the power exercisable by it under section 8 of the said Act to recover as an arrear of land revenue any amount due from an employer in relation to an establishment in respect of which it is the appropriate Government, shall also be exercisable within each of the States specified in the Schedule annexed hereto by the Government of that state.

SCHEDULE

1. Assam.
2. Andhra Pradesh.
3. Bihar.
4. Gujarat.

5. Kerala.
6. Madhya Pradesh
7. Madras.
8. Maharashtra.
9. Mysore.
10. Orissa.
11. Punjab.
12. Rajasthan.
13. Uttar Pradesh.
14. West Bengal.

[No. 6(14)/61-PF.II]

New Delhi the 23rd January 1963

S.O. 291.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952. (19 of 1952), the Central Government hereby appoints Shri S. N. Shukla, with effect from the 26th November, 1962, (after-noon) onwards as an Inspector for the whole of the State of Rajasthan for the purposes of the said Act and of any Scheme framed thereunder, in relation to any establishment belonging to, or under the control of the Central Government, or in relation to any establishment connected with a railway company, a major port, a mine or an oilfield, or controlled industry.

[No. 17(31)/62-PF. I/I.]

S.O. 292.—In pursuance of the provisions of paragraph 20 of the employees' Provident Funds Scheme, 1962, the Central Government hereby appoints Shri S. N. Shukla as Regional Provident Fund Commissioner for the whole of the State of Rajasthan, with effect from the 26th November, 1962 (after-noon), and directs that Shri Shukla shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. 17(31)/62-PF. I/II.]

S.O. 293.—In pursuance of the provisions of paragraph 20 of the Employees' Provident Funds Scheme, 1952, the Central Government hereby appoints Shri D. T. Ghatpande as Regional Provident Fund Commissioner for the whole of the State of Maharashtra *vice* Shri G. R. Deshpande, and directs that Shri Ghatpande shall work under the general control and superintendence of the Central Provident Fund Commissioner.

[No. 17(35)63-PF. I/I.]

S.O. 294.—In exercise of the powers conferred by Sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri D. T. Ghatpande, to be an Inspector for the whole of the State of Maharashtra *vice* Shri G. R. Deshpande, for the purposes of the said Act or of any scheme framed thereunder, in relation to an establishment belonging to, or under the control of the Central Government, or in relation to an establishment connected with a railway company, a major port, a mine or an oilfield or a controlled industry.

[No. 17(35)63-PF. I/II.]

New Delhi, the 28th January 1963

S.O. 295.—In exercise of the powers conferred by sub-section (1) of section 13 of the Employees' Provident Funds Act, 1952 (19 of 1952), the Central Government hereby appoints Shri N. M. Pathak to be an Inspector for the whole of the State of Maharashtra for the purposes of the said Act or of any Scheme framed thereunder, in relation to an establishment belonging to, or under the control of the Central Government, or in relation to an establishment connected with a railway company, a major port, a mine or an oil-field or a controlled industry.

[No. 20(32)63-PF-I.]

P. D. GAIHA, Under Secy.

CORRIGENDUM

New Delhi, the 21st January 1963

S.O. 296.—In the Government of India, Ministry of Labour and Employment, Notification No. 3938 dated the 22nd December, 1962, appearing on pages 4268-4269 of the Gazette of India, Part II, Section 3, sub-section (ii) dated the 29th December, 1962, under heading Members, against Serial No. (2) for 'Shri Ram Narain Sharma, M.L.A., P.O. Jharla, District Dhanbad' read "Shri Ram Narain Sharma, M.L.A., Dhanbad",

[No. 3/9/61-MI.]

R. C. SAKSENA, Under Secy

CORRIGENDA

New Delhi the 23rd January 1963

S.O. 297.—In the notification of the Government of India in the Ministry of Labour and Employment, S.O. No. 40, dated the 22nd December, 1962, published at pages 31 to 42 of the Gazette of India, Part II, Section 3, sub-section (ii), dated the 5th January, 1963/Pausa 15, 1884,—

- (i) at page 34, in sub-clause (2) of clause 17, in line 5, for "he" read "the";
- (ii) at page 35, in sub-clause (5) of clause 21, in line 7, for "receased" read "deceased";
- (iii) at page 41, in Schedule II, in the last two entries under the column "percentage of disability", for "40" and "30" read "40%" and "30%", respectively.

[No. 1/5/62(i)-Spl.]

S.O. 298.—In the notification of the Government of India in the Ministry of Labour and Employment, S.O. No. 41, dated the 22nd December, 1962, published at pages 43-57, of the Gazette of India, Part II, Section 3, Sub-section (ii), dated the 5th January, 1963/Pausa 15, 1884,—

- (i) at page 45, in Form A-1, in second column, for "Bas" read "Gas";
- (ii) at page 46, in Form A-2,—
 - (a) in column 1, in line 20, after "casual" insert "-";
 - (b) in column 2, in line 7, for "Tme" read "time";
 - (c) in Form B-1, in column 1, in line 11, for "Not" read "Note";
- (iii) at page 47, in Form B-2, in column 1, in line 20, for "in capaciated" read "incapaciated";
- (iv) at page 48,—
 - (a) in Form B-2,—
 - (i) in line 1, for "Date" read "Dates";
 - (ii) in line 3, for "incapacitate" read "incapacitated";
 - (b) in Form B-3, heading "Reverse", in line 3, after "Personal Injuries", omit ",";
- (v) at page 49, in Form B-5, in Note 2, for "apatient" read "a patient";
- (vi) at page 50, in Form C,—
 - (i) in line 4, for "fullname" read "full name";
 - (ii) in line 31, for "Ifthe" read "If the" and for "and" read "any";
 - (iii) in line 34, for "cerryfy" read "certify";
- (vii) at page 51,—
 - (a) in Form D, in line 32, for "detaillsthereof" read "details thereof";

- (b) in Form E,—
 - (i) in line 6, for "husand" read "husband";
 - (ii) in line 20, for "Author" read "Authority";
- (viii) at page 52, Form F, in line 4, from the bottom, for "Injurle" read "Injuries";
- (ix) at page 54, in Form G-I, under the heading "Instructions for the persons in receipt of Family Pension or Children's Allowance", in para 2(a) (3), in line 2, for "for" read "or";
- (x) at page 55, in Form G-II,
 - (i) in line 22, for "treatement" read "treatment";
 - (ii) in line 3 from the bottom, omit "payable";
- (xi) at page 56,—
 - (a) in Form G-II, under the heading "Instructions for the persons in receipt of temporary allowance or disability pension", in para 1.—
 - (i) in line 4, for "ciruemstances" read "circumstances";
 - (ii) in line 6, for "allowanee" read "allowance";
 - (b) in form H,—
 - (i) in line 5, for "chiildren's" read "children's";
 - (ii) under the heading "(a) Family Pension", in item (3), in line 1, for "abov" read "above";
- (xii) at page 57,—
 - (a) in Form H,—
 - (i) in line 1, omit " ";
 - (ii) in line 5, omit " ";
 - (b) in Form J,—
 - (i) in line 4, after "permanent pension" insert "/";
 - (ii) in line 26, omit ":" occurring after "Disability".

[No. 1/5/62-(ii)-SPL.]

VIDYA PRAKASH, Dy. Secy.

OFFICE OF THE COLLECTOR OF CENTRAL EXCISE, BANGALORE

Bangalore, the 11th November 1962

S.O. 299.—In exercise of the powers conferred on me under rule 50 of the Central Excise Rules, 1944, I hereby direct that manufacturers of plywood shall not remove veneers produced in their premises without the permission of the Central Excise Officer in charge of the factory.

2. The manufacturers desirous of removing veneers should present an application in the proper form in duplicate to the Central Excise Officer in charge of the factory sufficiently in advance and obtain his written permission before effecting removal of the same from the factory.

[No. 12/62.]

N MOOKHERJEE, Collector.

OFFICE OF THE COLLECTOR, CENTRAL EXCISE, PATNA

TRADE NOTICE

Patna, the 5th December 1962

SUBJECT:—Central Excise—Soap—Exemption from Central Excise Duty—
Regulation of—

S.O. 300.—It has been decided that in the case of manufacturer who produces soap with the aid of power, as well as without the aid of power, and who chooses to avail of the exemption quota in the unit employing power, the clearances of such a manufacturer with reference to reduced exemption limits under Notification No. 36-37/62-Central Excise, dated the 24th April, 1962, will be regulated in the following manner, namely:—

- (a) *in respect of power operated unit he can clear without payment of duty:*
- (i) 50 metric tonnes of household and laundry soap,
 - (ii) 25 metric tonnes of toilet, monopole or textile soap, and
- (b) *in respect of non-power operated unit:*
- (i) first 25 metric tonnes of household and laundry toilet, monopole, or textile soap or of all, can be cleared without payment of duty,
 - (ii) next 75 metric tonnes of such soap will be assessed at the standard rate of duty, and
 - (iii) after (i) and (ii) have been exhausted the preferential rates will apply to the clearance of next 200 metric tonnes of such soap.

2. The exemption limits specified in the above cited notifications relate to soap cleared for home consumption by any manufacturer on or after first day of April in any financial year. In regulating the clearances under those notifications during the current financial year, the quantities cleared from 1st April to 23rd April 1962 shall also be taken into account.

[No. 71/61-MP/62.]

A. R. SHANMUGAM, Collector.

CENTRAL EXCISE COLLECTORATE, SHILLONG

CENTRAL EXCISE

Shillong, the 31st December 1962

S.O. 301.—In exercise of the powers vested in me under Rule 5 of C. Ex. Rules, 1944, I empower the subordinate officers indicated in Col. 4 of the subjoined table to exercise the powers of the Collector under the provisions of the various rules shown in col. 3, relating to special procedure in respect of battery plates.

Sl. No.	Nature of powers conferred on Collectors	Rule Number	Collectors Powers to be delegated to
1	2	3	4
1.	To accept first ASP application for full period for which special procedure can be availed of.	96-Y(1)	Supdt.
2.	To accept first ASP application for a period less than the prescribed period.	96-Y(2)	Do.

1	2	3	4
3.	To determine the period for which a manufacturer may be precluded from working under the special procedure for failure to give proper notice for not availing of such procedure during the period for which permission has been granted to him.	96-Y(3)	Asstt. Collector.
4.	(a) To accept renewal applications form A.S.P. (b) To condone delay in submission of ASP application for renewal.	96-Y(4) 96-Y(4)	Supdt. (i) Supdt. for condoning delay not exceeding 15 days. (ii) A.C. for condoning delays exceeding 15 days.
5.	To condone delay in submission of application for removal in form A.R. 6 and to condone delays in making monthly deposits.	96-Z(2)	(i) Supdt. for condoning delay not exceeding 5 days. (ii) A.C. if the delay exceeds the limits under (i) above.
6.	To impose following penalties for misdeclaration etc. (i) to demand duty at full rate. (ii) to confiscate goods (iii) to impose penalty not exceeding Rs. 2000/- (iv) to debar a manufacturer from availing of special procedure.	96-ZZZ(i) 96-ZZZ(ii) 96-ZZZ(iv) 96-ZZZ(iii)	Asstt. Collector. Adjudicating Officers in accordance with their normal limits of powers. Asstt. Collector.

[No. 4/62.]

B. S. CHAWLA, Collector.

CENTRAL EXCISE COLLECTORATE, HYDERABAD**CENTRAL EXCISE***Hyderabad, the 25th January 1963*

S.O. 302.—In pursuance of Rule 5 of the Central Excise Rules, 1944, I hereby delegate to officers in Hyderabad Collectorate mentioned in column 2 of the table below, the powers of Collector under the rules specified in column 3 thereof in connection with the special procedure for battery plates. Nature of the power delegated is detailed in column 4 of the table.

TABLE

Sl. No. (1)	Officers to whom the powers are delegated (2)	Rule Number (3)	Nature of powers delegated. (4)
1.	Superintendent	96-Y(1)	Acceptance of first ASP application for full period for which special procedure can be availed of.
2.	Do.	96-Y(2)	Acceptance of first ASP application for a period less than the prescribed period.

1	2	3	4
3.	Assistant Collector	95-Y 3)	Determination of the period for which a manufacturer may be precluded from working under the special procedure for failure to give proper notice for not availing of such procedure during the period for which permission has been granted to him.
4.	(i) Superintendent	96-Y(4)	Acceptance of renewal application in form ASP.
	(h) Do.	96-Y(4)	Condonation of delay not exceeding 15 days in submission of ASP application for renewal.
	(c) Asstt. Collector	96-Y(4)	Condonation of delays exceeding 15 days in submission of ASP application for renewal.
5.	(i) Superintendent	96-Z(2)	Condonation of delay in submission of application for removal in form A.R. 6 and in making monthly deposits not exceeding 5 days.
	(b) Asstt. Collector	96-Z(2)	Condonation of delay in submission of application for removal in form A.R. 6 and in making monthly deposits, exceeding 5 days.
6.	(i) Asstt. Collector	96-ZZZ(i)	Power of demanding duty at full rate.
	(b) Adjudicating officers in accordance with their normal limits of powers.	66-ZZZ(ii) and 96ZZZ-(iv)	Power to confiscate goods and impose penalty not exceeding Rs. 2,000/-.
	(c) Asstt. Collector	96-ZZZ(iii)	Power to debar a manufacturer from availing of special procedure.

[No. 1/63.]

R. C. MEHRA, Collector.

COLLECTORATE OF CENTRAL EXCISE, CALCUTTA & ORISSA: CALCUTTA**CENTRAL EXCISE***Calcutta, the 20th January 1963*

S.O. 303.—In exercise of the powers conferred on me by rule 5 of Central Excise Rules, 1944, I hereby authorise the Assistant Collector of Central Excise, Refunds, Calcutta, in the Collectorate of Central Excise, Calcutta and Orissa, to exercise the powers of Collector under the rules 183A and 189B of Central Excise Rules, 1944.

[No. 2/1963.]

VIPIN MANEKLAL, Collector.

MINISTRY OF COMMERCE & INDUSTRY*New Delhi, the 21st January 1963*

S.O. 304.—In exercise of the powers conferred by sub-section (2) of section 8E of the Industries (Development and Regulation) Act, 1951 (65 of 1951), the Central Government hereby makes the following further amendment in the notification of the Government of India in the Ministry of Commerce and Industry No. 14(17)-Tex(A)/60, dated the 23rd November, 1961, (Specifying the exceptions,

restrictions and limitations subject to which the Companies Act, 1956, shall continue to apply to the industrial undertaking called the R.S.R.G. Mohta Spinning and Weaving Mill Private Ltd., Akola), namely:—

In the schedule to the said Notification before the existing items and entries, the following item and entry shall be inserted namely:—

"Section 224 Proviso to clause (a) of sub-section (6) of this section shall not apply."

[No. F. 10(32)-Tex(A)/62.]

A. B. DATAR, Under Secy.

New Delhi, the 25th January 1963

S.O. 305—In exercise of the powers conferred by sub-section (1) of section 10, of the Indian Standards Institution (Certification Marks) Act, 1952 (36 of 1952), read with rule 13 of the Indian Standards Institution (Certification Marks) Rules 1955, the Central Government, in consultation with the Indian Standards Institution hereby directs, that any powers exercisable by the said Institution under clause (c) of section 3 of the said Act, shall be exercisable also by the Council of Scientific and Industrial Research, Ministry of Scientific Research and Cultural Affairs, in respect of Flame proof Electrical Equipment manufactured in India.

[No. 23(64)-TMP/59.]

HARGUNDAS, Under Secy.

ORDER

New Delhi, the 28th January 1963

S.O. 3060/IDRA/6/12.—In exercise of the powers conferred by Section 6 of the Industries (Development and Regulation) Act, 1951 (65 of 1951) read with rule 5(1) of the Development Councils (Procedural) Rules 1952, the Central Government hereby appoints Shri Kundan Lal to be a member, till the 15th March, 1964, of the Development Council established by the Order of the Government of India in the Ministry of Commerce and Industry No. S.O. 819, dated the 16th March 1962, for the scheduled industries engaged in the manufacture or production of Textiles made of Wool, including Woollen Yarn and Hosiery and directs that the following amendment shall be made in the said Order, namely:—

In the said Order, after entry No. 22 relating to Shri R. K. Seth, the following entry shall be inserted, namely:—

"23 Shri Kundan Lal, 5597, Gandhi Market, Sadar Bazar, Delhi-8."

[No. 1(3)/L Pr./62]

S P KRISHNAMURTHY, Under Secy.

CORRIGENDUM

New Delhi, the 25th January 1963

S.O. 307.—In the Notification of the Ministry of Commerce and Industry dated the 1st January, 1963, and published at pages 18-19, of the Gazette of India [Part II Section 3, Sub-section (ii)], dated the 5th January, 1963/Pausa 15, 1884, as S.O. 20, for the words "Class Posts" occurring in the last sentence thereof, read "Class II Posts".

[No. F. 21(8)Pl-int(B)/62.]

B. KRISHNAMURTHY, Under Secy.

(Department of International Trade)

ORDERS

EXPORT TRADE CONTROL

New Delhi, the 26th January 1963

S.O. 308.—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), as in force in India

and as applied to the State of Pondicherry, the Central Government hereby makes the following further amendment to the Exports (Control) Order, 1962, namely:—

In Part B of Schedule I to the above Order—the following entry of item 28 shall be omitted:—

“(v) Lithium.”

[No. 2A/10/62-Export.]

New Delhi, the 2nd February 1963

S.O. 309.—In exercise of the powers conferred by Section 3 of the Imports and Exports (Control) Act, 1947 (18 of 1947), the Central Government hereby makes the following further amendment to the Exports (Control) Order, 1962, namely:—

In part B of Schedule I to the above Order, for item 31, the following shall be substituted:—

“31. Shellac, seed lac, button lac, garnet lac and all other forms of lac or manufactures thereof excluding stick lac and refuse lac.”

[No. E(C)O, 1962/AM(12).]

H. K. SINGH, Dy. Secy.

(Office of the Joint Chief Controller of Imports & Exports)

NOTICE

Bombay, the 5th January 1963

S.O. 310.—It is hereby notified that in exercise of the powers conferred by Clause 9(a) of the Import (Control) Order 1955, the Government of India in the Ministry of Commerce and Industry proposes to cancel licence Number A. 637342, dated 31st May, 1962, valued at Rs. 1,645 for import of Cellulose No. Sheets from General Area except South Africa granted by the Jt. Chief Controller of Imports and Exports, Bombay to M/s. Patel Industries Madhavpura Bldg., June Bazar, Karjan Gujarat State unless sufficient cause against this is furnished to the Dy. Chief Controller of Imports and Exports, Nou Bhavan, Nicol Road, Ballard Estate, Bombay-1 within 10 days of the date of issue of this Notice by the said M/s. Patel Industries, Karjan or any Bank or any other party who may be interested in it.

The above licence was obtained on the basis of Essentiality Certificate which was secured by M/s. Patel Industries, Madhavpura Bldg., Karjan from Dy Director of Industries, Baroda by misrepresentation of facts

To

M/s. Patel Industries,
Madhavpura Bldg.,
Karjan,
Gujarat State.

[No. 1/149/62/CDN. II.]

R. R. KIRPALANI,
Dy. Chief Controller of Imports and Exports.

(Indian Standards Institution)

New Delhi, the 21st January 1963

S.O. 311.—In partial modification of the rate of marking fee for Infant Milk Foods, notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution), Notification No. S.O. 3122 dated the 30th December 1960, published in the Gazette of India, Part II, Section 3, Sub-Section (ii), dated the 31st December 1960, the Indian Standards Institution hereby notifies that the marking fee per unit for Infant Milk Foods, details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with effect from 1 January 1963.

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of relevant Indian Standard	Unit	Marking Fee per Unit
1.	Infant Milk Foods	IS : 1547-1960 Specification for Infant Milk Foods	One Metric Tonne	Rs. 5.00 per unit with a minimum of Rs. 3,000.00 for production during the calendar year.

[No. MD/18:2.]

S.O. 312.—In partial modification of the rate of marking fee for Milk Powder (Whole and Skim), notified in the Schedule annexed to the Ministry of Commerce and Industry (Indian Standards Institution) Notification No. S.O. 1863 dated the 19th July 1960, published in the Gazette of India Part II, Section 3, Sub-Section (ii), dated the 30th July 1960, the Indian Standards Institution hereby notifies that the marking fee per unit for Milk Powder (Whole and Skim), details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with effect from 1 January 1963.

THE SCHEDULE

Sl. No.	Product/Class of Products	No. and Title of relevant Indian Standard	Unit	Marking Fee per unit
1.	Milk Powder (Whole and Skim)	IS : 1165-1957 Specification for Milk Powder (Whole and Skim)	One Metric Tonne	Rs. 5.00 per unit with a minimum of Rs. 3,000.00 for production during a Calendar year.

[No. MD/18:2.]

New Delhi, the 25th January 1963

S.O. 313.—In pursuance of the provisions of sub-rule (2) of rule 3 of the Indian Standards Institution (Certification Marks) Rules, 1955, as amended in 1962, the Indian Standards Institution hereby notifies that the Indian Standards given in the Schedule hereto annexed have been established during the quarter ending 31 December, 1962.

THE SCHEDULE

Sl. No.	No. of Indian Standard	Title of Indian Standard
1	IS: 102-1962	Specification for Ready Mixed Paint, Brushing, Red Lead, Nonsetting, Priming (<i>Revised</i>)
2	IS: 103-1962	Specification for Ready Mixed Paint, Brushing, White Lead, for Priming and General Purposes (<i>Revised</i>)
3	IS: 104-1962	Specification for Ready Mixed Paint, Brushing, Zinc Chrome, Priming, for Use on Aluminium and Light Alloys (<i>Revised</i>)
4	IS: 106-1962	Specification for Ready Mixed Paint, Brushing, Priming, for Enamels, for Use on Wood (<i>Revised</i>)
5	IS: 210-1962	Specification for Grey Iron Castings (<i>Revised</i>)
6	IS: 252-1962	Specification for Caustic Soda, Technical (<i>Revised</i>)
7	IS: 265-1962	Specification for Hydrochloric Acid (<i>Revised</i>)
8	IS: 266-1961	Specification for Sulphuric Acid (<i>Revised</i>)

Sl. No.	No. of Indian Standard	Title of Indian Standard
9	IS: 294-1962 . . .	Specification for Superphosphate (<i>Revised</i>)
10	IS: 560-1961 . . .	Specification for BHC, Technical (<i>Revised</i>)
11	IS: 561-1962 . . .	Specification for BHC Dusting Powders (<i>Second Revision</i>)
12	IS: 562-1962 . . .	Specification for BHC Water Dispersible Powder Concentrates (<i>Second Revision</i>)
13	IS: 597-1962 . . .	Specification for Black Plate for Tinning and Tinplate (Pack Rolled) (<i>Revised</i>)
14	IS: 620-1962 . . .	Specification for General Requirements for Wooden Tool Handles (<i>Revised</i>)
15	IS: 651-1962 . . .	Specification for Salt-Glazed Stoneware Pipes and Fittings (<i>Revised</i>)
16	IS: 684-1962 . . .	Method for Determination of Nep Count in Cotton
17	IS: 685-1962 . . .	Method for Determination of Breaking Load, Elongation at Break and Tenacity of Single Thread by Constant-Rate-Of-Load Testing Machine
18	IS: 741-1962 . . .	Code for Inland Packaging of Woollen and Worsted Cloth and Yarn
19	IS: 800-1962 . . .	Code of Practice for Use of Structural Steel in General Building Construction (<i>Revised</i>)
20	IS: 837-1962 . . .	Specification for Doffer and Flat Stripping Comb Blades
21	IS: 844-1962 . . .	Specification for Screw Drivers
22	IS: 984b-1962 . . .	Method for Determination of Colour Fastness of Textile: Materials to Washing in the Presence of Sodium Hypochlorite.
23	IS: 9861-1962 . . .	Specification for Cotton Spindle Tape (For Wool Textile Mills)
24	IS: 1053-1962 . . .	Specification for Dieltrin Water Dispersible Powder Concentrates (<i>Revised</i>)
25	IS: 1058-1962 . . .	Specification for Commercial Metric Capacity Measures (<i>Revised</i>)
26	IS: 1528-1962 . . .	Methods of Sampling and Physical Tests for Refractory Materials
27	IS: 1625-1962 . . .	Code of Practice for Preparation and Use of Lime Mortar in Buildings
28	IS: 1663 (Part II)-1962 . . .	Method for Tensile Testing of Steel Sheet and Strip Part II Steel Sheet and Strip of Thickness Above 3 mm
29	IS: 1730-1961 . . .	Dimensions for Steel Plate, Sheet and Strip for Structural and General Engineering Purposes
30	IS: 1760-1962 . . .	Method of Chemical Analysis of Limestone, Dolomite and Allied Materials
31	IS: 1802-1961 . . .	Specification for Ionones
32	IS: 1874-1962 . . .	Specification for Ready Mixed Paint, Universal Zinc Chrome, Priming (Synthetic) for Light Alloys for Aircraft
33	IS: 1894-1961 . . .	Method for Tensile Testing of Steel Tubes
34	IS: 1977-1962 . . .	Specification for Structural Steel (Ordinary Quality)
35	IS: 1983-1962 . . .	Shank Sections for Single Point Turning and Planning Tools
36	IS: 2001-1962 . . .	Specification for Fixed Silvered Mica Capacitors
37	IS: 2002-1962 . . .	Specification for Steel Plates for Boilers
38	IS: 2004-1962 . . .	Specification for Carbon Steel Forgings for General Engineering Purposes
39	IS: 2007-1961 . . .	Method for Calibration of Vertical Oil Storage Tanks
40	IS: 2008-1961 . . .	Method for Computation of Capacity Tables for Vertical Oil Storage Tanks
41	IS: 2009-1961 . . .	Method for Calibration of Horizontal and Tilted Oil Storage Tanks
42	IS: 2013-1962 . . .	Dimensions for T-Slots
43	IS: 2014-1962 . . .	Specification for T-Bolts
44	IS: 2015-1962 . . .	Specification for T-Nuts
45	IS: 2032 (Part II)-1962 . . .	Graphical Symbols Used in Electrotechnology Part II Kind of Current Distribution Systems and Methods of Connection

Sl. No.	No. of Indian Standard	Title of Indian Standard
46	IS: 2053-1962	Specification for Thermocouple Pyrometers
47	IS: 2054-1962	Reference Tables for Nickel/Aluminium—Nickel-Chromium Thermocouples
48	IS: 2055-1962	Reference Tables for Platinum—Platinum/Rhodium Thermocouples
49	IS: 2056-1962	Reference Tables for Copper—Constantan Thermocouples
50	IS: 2057-1962	Reference Tables for Iron-Constantan Thermocouples
51	IS: 2062-1962	Specification for Structural Steel (Fusion Welding Quality)
52	IS: 2069-1962	Specification for Drums for Covered Winding Wires and Strips for Electrical Purposes
53	IS: 2070-1962	Method of Impulse Voltage Testing
54	IS: 2074-1962	Specification for Ready Mixed Paint, Red Oxide-Zinc Chrome, Priming
55	IS: 2075-1962	Specification for Ready Mixed Paint, Stoving, Red Oxide-Zinc Chrome, Priming
56	IS: 2085-1962	Code for Designation of Ferro-Alloys
57	IS: 2089-1962	Specification for Common Proofed Paulins (Tarpaulins)
58	IS: 2092-1962	Specification for Dial Gauges
59	IS: 2093-1962	Specification for Distributors for Hot Tar and Bitumen
60	IS: 2102-1962	Recommendations for Machining Deviations for Dimensions without Specified Tolerances
61	IS: 2103-1962	Specification for Engineer's Squares
62	IS: 2105-1962	Specification for Letterpress Ink, Black, General Purposes
63	IS: 2106 (Part I)-1962	Environmental Tests for Electronic Equipment Part I General
64	IS: 2106-(Part II)-1962	Environmental Tests for Electronic Equipment Part II Damp Heat (Cycling) Test
65	IS: 2107-1962	Specification for Whiteheart Malleable Iron Castings
66	IS: 2113-1962	Methods for Assaying of Silver and Silver Alloys
67	IS: 2118-1962	Code of Practice for Construction of Jack-Arch Type of Built-Up Floor or Roof
68	IS: 2119-1962	Code of Practice for Construction of Brick-Cum-Concrete Composite (Madras Terrace) Floor or Roof
69	IS: 2122-1962	Code of Practice for Installation and Maintenance of Belt Drives for Power Transmission
70	IS: 2124-1962	Specification for Sodium Bicarbonate
71	IS: 2125-1962	Specification for Phenyl Mercury Salicylate, Technical
72	IS: 2126-1962	Specification for Phenyl Mercury Acetate, Technical
73	IS: 2127-1962	Specification for Stabilized Methoxy Ethyl Mercury Chloride Concentrate
74	IS: 2128-1962	Specification for Parathion, Technical
75	IS: 2129-1962	Specification for Parathion Emulsifiable Concentrates
76	IS: 2130-1962	Specification for Hand Compression Sprayer for Agricultural Use
77	IS: 2134-1962	Specification for Round Tins for General Purposes
78	IS: 2135-1962	Specification for Rayon Shioze Khaka
79	IS: 2136-1962	Specification for Rayon Lining Cloth
80	IS: 2137-1962	Specification for Rayon Bush Shirt Cloth
81	IS: 2138-1962	Specification for Rayon Satin Containing Metallic Yarn
82	IS: 2139-1962	Specification for Rayon Striped Shirting Cloth
83	IS: 2140-1962	Specification for Stranded Galvanized Steel Wire for Fencing
84	IS: 2141-1962	Specification for Galvanized Stay Strand
85	IS: 2143-1962	Specification for Open Surface Milk Coolers (With Tinned Copper Tubes)
86	IS: 2144-1962	Specification for Hand Operated Bottle Washer
87	IS: 2145-1962	Specification for Hand Bottle Filler
88	IS: 2146-1962	Specification for Hand Operated Cap Sealer for Milk Bottles
89	IS: 2149-1962	Specification for Luminaires for Street lighting
90	IS: 2150-1962	Specification for Rayon Place Crepe
91	IS: 2151-1962	Specification for Maize Germ Oilcake
92	IS: 2152-1962	Specification for Maize Gulten Feed
93	IS: 2153-1962	Specification for Maize Bran

Sl. No.	No. of Indian Standard	Title of Indian Standard
94	IS: 2154-1962	Specification for Coconut Oilcake as Livestock Feed
95	IS: 2156-1962	Code for Packing Raw Wool for Export
96	IS: 2157-1962	Specification for Handloom Shoddy Woollen Blankets; (Double Faced)
97	IS: 2159-1962	Specification for Handloom Viscose Staple Fibre Shirting, Bleached, Dyed, Striped or Checked
98	IS: 2160-1962	Specification for Handloom Viscose Staple Fibre Coating, Bleached, Dyed, Striped or Checked
99	IS: 2161-1962	Specification for Coolant Pumps for Machine Tools
100	IS: 2165-1962	Guide for Insulation Co-ordination.
101	IS: 2167-1962	Specification for Bottle Coolers
102	IS: 2172-1962	Specification for Handloom Filament Rayon Series
103	IS: 2173-1962	Specification for Handloom Melton (Shoddy) Cloth
104	IS: 2181-1962	Specification for Household Sewing Machine Needles
105	IS: 2205-1962	Specification for Tube Inflated Football Bladders

[No. MD/13:3.]

D. V. KARMARKAR,

Head of the Certification Marks Division.

MINISTRY OF MINES & FUEL*New Delhi, the 21st January 1963*

S.O. 314.—Whereas it appears to the Central Government that coal is likely to be obtained from the land mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby give notice of its intention to prospect for coal therein.

SCHEDULE

Drg. No. Rev/160/61

Dated 14-12-1961

BLOCK XI—RANIGANJ
(COALFIELD)

Sl. No	Village	Thana No.	Police Stn. (Thana)	District	Area	Remarks
1.	Ukhra	18	Ondal Faridpur	Burdwan		Part
2.	Balijuri	16	"	"		"
3.	Sirsha	17	"	"		"
4.	Nabaghanapur	19	"	"		"
5.	Tilabani	20	"	"		Full
6.	Landoa	21	"	"		"
7.	Chaklandoha	22	"	"		"
8.	Jan ara	23	"	"		Part
9.	Madhaiganj	24	"	"		"
10.	Bansia	31	"	"		"
11.	Shyampur	32	"	"		Full
12.	Jhanjra	33	"	"		Part
13.	Bhadrapur	34	"	"		Full
14.	Sarpi	35	"	"		Part
15.	Kendua	36	"	"		"
16.	Ichhapur	50	"	"		"
17.	Amloka	51	"	"		"
18.	Bangari	52	"	"		"

TOTAL AREA

6525.00 acres (Approx).

Boundary description:

- A—B line passes through village Amloka.
- B—C line passes through villages Amloka and Ukhra.
- C—D line passes through village Ukhra.
- D—E—F—G line passes through villages Ukhra and Amloka.
- G—H line passes through villages Amloka, Ichhapur & Sarpi.
- H—I—J line passes through village Kendua.
- J—K line passes through villages Kendua and Sarpi.
- K—L—M—N line passes through villages Sarpi and Jhanjra.
- N—O—P—Q line passes through villages Jhanjra and Nabaghanapur.
- Q—R line passes partly along the Western boundary of village Nabaghanapur.
- R—S line passes through villages Nabaghanapur, Sirsha, Balljuri and Madhaiganj.
- S—T line passes through villages Madhaiganj and Jamgara.
- T—U line passes through villages Jamgara & Bansia.
- U—V line passes along the Southern boundary of villages Shyanpur, Jhanjra and Bhadrapur.
- V—W line passes along the Eastern boundary of village Sarpi.
- W—X—Y line passes along the Southern boundary of villages Sarpi and Kandua.
- Y—A line passes through villages Ichhapur and Bangari.

The plans of the area can be inspected at the office of the Collector Burdwan (West Bengal) or at the office of the National Coal Development Corporation Ltd. (Revenue Section) Darbhanga House, Ranchi.

[No. C2.24(1)/62.]

New Delhi, the 22nd January 1963

S.O. 315.—In exercise of the powers conferred by Section 27 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby makes the following rules to amend the Coal Bearing Areas (Acquisition and Development) Rules, 1957, namely:—

1. These rules may be called the Coal Bearing Areas (Acquisition and Development) amendment Rules, 1963

2. In the Coal Bearing Areas (Acquisition and Development) Rules, 1957, in rule 6, for the expression "S-Deposits and Advances Civil Deposits—Coal Bearing Areas (Acquisition and Development) Tribunal—Madhya Pradesh/Bihar—Deposits of Tribunal appointed under the Coal Bearing Areas (Acquisition and Development) Act, 1957" the expression "S-Deposits—Coal Bearing Areas (Acquisition and Development) Tribunal—Madhya Pradesh/Bihar/Orissa—Deposits of Tribunals appointed under the Coal Bearing Areas (Acquisition and Development) Act, 1957" shall be substituted.

[No. F. C2.1(6)/62.]

ERRATUM

New Delhi, the 22nd January 1963

S.O. 316.—In the schedule to the notification of the Government of India, in the Ministry of Mines and Fuel S.O. No. 3685, dated the 27th November, 1962, published in part II, Section 3 Sub-section (ii) of the Gazette of India dated the 8th December, 1962:—

- (1) At page 4019 in last line *For "23(P)" Read "923(P)".*
- (2) At page 4020.
 - (i) in the fifteenth line *For "1028,1028" Read "1027, 1028".*
 - (ii) in the Schedule B Sub-Block 11 in the 6th column, against serial 4, *For "1400 acres" Read "14.00 acres".*
- (3) At page 4021.
 - (i) in the eighth line *For "Lurunga" Read "village Lurunga";*
 - (ii) in the ninth line *For "497" Read "487";*
 - (iii) in the paragraph beginning with "11-12-13 line passes through plot Nos. 48, 108, 3, 56, 55 in village Riha etc *For "Riha" Read "Rikha".*
- (4) At page 4022.
 - (i) in the paragraph beginning with "10-11 line passes through plot Nos. in village Tikba" *For "Tikba" Read "Rikba".*
 - (ii) in the paragraph beginning, with "11-4 line passes through plot Nos. in village Rikba" insert "187" after "146" and before "along the common boundary, etc.".
 - (iii) under the heading "plot Nos. acquired in village Rikha" *For "acquired" Read "acquired".*
- (5) At page 4023, under the heading "plot Nos. acquired in village Khapia" *For "549(P)", Read "549".*

[No. F. C2.20(1)/61.]

P. S. KRISHNAN, Under Secy.

MINISTRY OF FOOD AND AGRICULTURE

(Department of Agriculture)

New Delhi, the 23rd January 1963

S.O. 317.—In exercise of the powers conferred by the proviso to article 309, of the Constitution, the President hereby makes the following rules further to amend the Ministry of Food and Agriculture (Recruitment to Technical Non-gazetted Class II and III Posts) Rules, 1959, published with the notification of the

Government of India in the Ministry of Food and Agriculture (Department of Agriculture) No. S.O.-358, dated the 4th February, 1959, namely:—

1. These rules may be called the Ministry of Food and Agriculture (Recruitment to Technical Non-gazetted Class II and III Posts) Amendment Rules, 1963.
2. In the Schedule to the Ministry of Food and Agriculture (Recruitment to Technical Non-gazetted Class II and III Posts) Rules, 1959, under Class III Non-gazetted posts, after item 23 and the entries relating thereto, the following item and entries shall be inserted, namely:—

1	2	3	4	5	6
'24 Research Investi- gator (Forestry)	One	General Central Service Class III Non- gazetted Non- Ministerial.	Rs. 320—15— 470—EB—15 —530.	Non- Selection	Between 20—28 yrs.

7	8	9	10	11	12	13
<i>Essential</i>	No. 2 yrs.	By pro- motion, failing which by direct re- cruitment.	<i>Promotion</i>	Not applicable	Not applicable	
(a) Graduate prefer- ably in Economics or Statistics.			From amongst the Technical Assistants (For- estry) with 3 yrs. service in that grade.			
(b) Five years ex- perience of :—						
(i) Collection, Col- lation and ana- lysis of forest data ;						
(ii) Scrutiny of plan develop- ment schemes in the forestry sector ;						
(iii) General Sec- retariat work in technical field.						
<i>Desirable</i> 1						
Experience of compi- lation of forestry survey report.						

[No. 3-27/62-E. IV.]

B. R. KAPOOR, Under Secy.

